

November 9, 2016

MEMORANDUM

TO: State Board of Regents

FROM: David L. Buhler

SUBJECT: USHE – Discussion of Property Transaction and Leasing Requirements Policy Revisions

Issue

The Office of the Commissioner engaged in a comprehensive review of and recommends a significant revision to Regent Policy R710, *Capital Facilities*. This is part of an ongoing effort to improve efficiency, transparency, and accountability around capital facilities and other property transactions. In consultation with the USHE institutions, the Commissioner's Office proposes to revise the current capital facilities policy to provide additional clarity regarding the appropriate level of approval needed, the dollar thresholds requiring Board of Regent approval for property transactions, and the development of a decision matrix for the institutions that highlights the type of property transaction and approval required.

Prior to presenting the new capital facilities related policies for approval at the January Board meeting, the Commissioner requests that the Board review and discuss the proposed revisions and determine if the new language, specifically the dollar thresholds requiring Board approval, align with Board expectations regarding appropriate oversight of USHE property transactions.

Background and Discussion

Utah code delegates authority to the Board of Regents to control and manage the real property of USHE institutions. The Board may acquire, construct, and remodel facilities as well as purchase and dispose of real property. Regent Policy R710, *Capital Facilities*, requires that certain property transactions, leasing, and capital projects be approved by the Board of Regents and delegates other transactions to institutional Boards of Trustees based on dollar limits. In addition to Regent Policy R710, Regent Policy R220, *Delegation of Responsibilities to the President and Board of Trustees*, delegates authority to the University of Utah Board of Trustees regarding property transactions and leasing for the University of Utah Healthcare System.

To help the Board understand the proposed policy revisions, a matrix of required approvals based on the revised Policy R710 is included in the attachments. Staff has also included a list of all property transactions and leases that have come to the Board for approval over the last three years.

In reviewing the policy revisions, the Board may wish to consider the following questions:

1. **Adjacent vs. non-adjacent property transactions**  
Is there a continued need to distinguish between transactions for property adjacent to and non-adjacent to campus in the policy?
2. **Locations outside of an institution's defined "Service Area"**  
Staff proposes that Board approval is required for any property purchased or leased outside of an institution's "Service Area" – does the Board concur with that requirement?
3. **Level of awareness regarding UU Healthcare System property transactions**  
The Board has delegated all property transactions, lease reviews, and final approvals for the Healthcare System to the University of Utah Board of Trustees – what level of reporting would the Board like to see on these property transactions (if any)?
4. **Board of Trustee delegation of property disposal transactions**  
Should the Board delegate any authority to dispose of property, either adjacent (contiguous) or non-adjacent (non-contiguous) to institutional Boards of Trustees (current policy requires all disposal proposals be presented to the Board for action)?
5. **President delegation for minor property disposal transactions <\$50,000**  
Does the Board concur with the addition of a new section allowing institutions to engage in minor property disposals for easements, right-of-ways, and other adjustments under \$50,000?
6. **Dollar thresholds requiring Board approval**  
Does the Board concur with distinguishing between the University of Utah and other institutions for setting a threshold for reporting leases to the Board? Are the thresholds sufficient throughout the policy and do they align with Board expectations?

Commissioner's Recommendation

The Commissioner recommends that the Board review and discuss the proposed revisions and determine if the new language, specifically the dollar thresholds requiring Board approval, align with Board expectations regarding appropriate oversight of USHE property transactions.

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David L. Buhler  
Commissioner of Higher Education

DLB/KLH/RPA  
Attachments

Utah System of Higher Education

Capital Project, Property Transaction, and Leasing Approval Requirements\*

Project or Property Request		Board of Trustees	Board of Regents	State Building Board	State Legislature	Statute Ref.	Policy Ref.
<b>Master Plan</b>		Periodically	Biennially	Not Required	Not Required	53B-6-101	R706
<b>New Construction or Existing Facility Improvement or Renovation Project</b>	State Funded	Required for Any Amount	Required for Any Amount	Required for Any Amount	Required for Any Amount	63A-5-104, 53B-20-104	R701
	Non-State Funded, new construction, no bonding	< \$500,000	≥ \$500,000	≥ \$500,000	Not Required	63A-5-104, 53B-20-104	R701, R702
	Non-State Funded, existing facility improvement or renovation, no bonding	< \$3,500,000	≥ \$3,500,000	≥ \$3,500,000	Not Required	63A-5-104, 53B-20-104	R701, R702
	Non-State Funded, requires bonding	Required for Any Amount	Required for Any Amount	Required for Any Amount	Required for Any Amount	63A-5-104, 53B-21-113	R590, R701, R702
	Non-State Funded where State funds will be requested for O&M or future capital improvement	Required for Any Amount	Required for Any Amount	Required for Any Amount	Required for Any Amount	63A-5-104, 53B-20-104	R701, R702
<b>Real Property Acquisition</b>	Adjacent to Campus	≤ \$500,000	> \$500,000	Not Required	Not Required	53B-20-103	R703
	Non-Adjacent to Campus	≤ \$100,000	> \$100,000	Not Required	Not Required	53B-20-103	R703
	Outside of Service Area	Required for Any Amount	Required for Any Amount	Not Required	Not Required	53B-20-103	R315, R703
	UU Health Care System	Required for Any Amount	Not Required	Not Required	Not Required	53B-20-103	R220, R703
<b>Real Property Disposal</b>	Non-gifted, Owned Property	Required for Any Amount	Required for Any Amount	Not Required	Not Required	53B-20-103	R704
	Gifted Property Non-Adjacent to Campus	≤ \$500,000	> \$500,000	Not Required	Not Required	53B-20-103	R704
	Minor Adjustments	≤ \$50,000	> \$50,000	Not Required	Not Required	53B-20-103	R704
	UU Health Care System	Required for Any Amount	Required for Any Amount	Not Required	Not Required	53B-20-103	R220, R704
<b>Leasing From or Leasing To</b>	More than 10 years	Required for Any Amount	Required for Any Amount	Not Required	Not Required	63A-5-305	R705
	Outside of Service Area	Required for Any Amount	Required for Any Amount	Not Required	Not Required	63A-5-305	R315, R705
	Establish State-Supported Daytime Programs	Required for Any Amount	Required for Any Amount	Not Required	Not Required	63A-5-305	R705
	UU Health Care System	Required for Any Amount	Not Required	Not Required	Not Required	63A-5-305	R220, R705
	Less than 10 years (UU)	≤ \$250,000	> \$250,000	Not Required	Not Required	63A-5-305	R705
	Less than 10 years (other USHE institutions)	≤ \$100,000	> \$100,000	Not Required	Not Required	63A-5-305	R705
<b>Lease-Purchase</b>		Required for Any Amount	Required for Any Amount	Not Required	Not Required	53B-21-108	R587, R712
<b>Non-Traditional Arrangements</b>		Required for Any Amount	Required for Any Amount	Not Required	Not Required	53B-21-108	R712

\*Based on proposed, but not yet adopted, changes to Policy R710

Utah System of Higher Education

**Capital Project, Property Transaction, and Leasing Approval Requirements\***

Project Type	Project Specifics	Board of Trustees	Board of Regents	State Building Board	State Legislature	Statute Ref.	Policy Ref.
<b>Master Plan</b>		Periodically	Biennially	Not Required	Not Required	53B-6-101	R706
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	Non-State Funded, existing facility improvement or renovation, no bonding	< \$3,500,000	≥ \$3,500,000	≥ \$3,500,000	Not Required	63A-5-104, 53B-20-104	R701, R702
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	Less than 10 years (UU, USU)	≤ \$250,000	> \$250,000	Not Required	Not Required	63A-5-305	R705
	Less than 10 years (non-research)	≤ \$100,000	> \$100,000	Not Required	Not Required	63A-5-305	R705
<b>Lease-Purchase</b>		Required for Any Amount	Required for Any Amount	Not Required	Not Required	53B-21-108	R587, R712
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	Less than 10 years (UU, USU)	≤ \$250,000	> \$250,000	Not Required	Not Required	63A-5-305	R705
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Utah State Board of Regents

Finance and Facility Committee Agenda Items 2014 to 2016

<u>Year</u>	<u>Meeting</u>	<u>Type</u>	<u>SubType</u>	<u>Instit.</u>	<u>Agenda Item Name</u>	<u>Amount</u>	<u>Source Funds</u>
2016	April	Action	Lease	SUU	Southern Utah University – Property Exchange and Long-Term Lease for Student Housing TAB M	\$ 38,000	Institutional
2014	July	Action	Lease	SLCC	Salt Lake Community College – West Valley City Property Lease TAB O	\$ 208,448	Institutional - Operating Revenue
2014	July	Action	Lease	WSU	Weber State University – Approval of Station Park Property Lease in Farmington, Utah TAB I	\$ 263,808	Continue Education
2016	September	Action	Lease	USU	Utah State University – Long-term Lease for the USU Salt Lake Education Center TAB J	\$ 526,000	Continue Education
2014	July	Action	Longterm Lease	USU	Utah State University – Brigham City Regional Campus Ground Lease for the New Academic Building TAB G	None Specified	Ground Lease for Brigham City
2014	November	Action	Longterm Lease	USU	Utah State University – Uintah Basin Regional Campus Ground Lease Approval	None Specified	15-20 yr LTL developer
2014	November	Action	Longterm Lease	USU	Utah State University – Long-term Ground Lease on USU Eastern Campus	None Specified	LTL w. Carbon County
2014	May	Action	Property Acquisition	USU	Utah State University – Real Property Acquisition in Montezuma Creek, Utah TAB V	\$ 115,000	Institutional
2015	July	Action	Property Acquisition	DSU	Dixie State University – East Elementary School Block Property Purchase TAB O	\$ 122,500	Institutional
2016	February	Action	Property Acquisition	Snow	Snow Land Acquisition Request Tab A	\$ 195,000	State Funds
2014	September	Action	Property Acquisition	WSU	5. Weber State University – Property Acquisitions TAB P	\$ 403,000	Institutional
2014	May	Action	Property Acquisition	USU	Utah State University – Acquisition of Property in Moab, Utah TAB U	\$ 440,000	Regional Campus/Distance Ed.
2015	March	Action	Property Acquisition	WSU	Weber State University - Acquisition of Property at 26th Street and Monroe Blvd. TAB R	\$ 560,000	Continue Ed.
2014	November	Action	Property Acquisition	USU	Utah State University – Acquisition of Properties Contiguous to the Logan Campus	\$ 700,000	Institutional
2015	July	Action	Property Acquisition	USU	Utah State University – Property Purchase in Moab, Utah TAB M	\$ 750,000	Regional Fee/Tuition
2016	September	Action	Property Acquisition	SLCC	Salt Lake Community College – Property Acquisition in Herriman TAB L	\$ 870,000	Institutional
2016	July	Action	Property Acquisition	UVU	Utah Valley University – Payson Land Purchase TAB U	\$ 900,000	Donations
2013	September	Action	Property Acquisition	UU	University of Utah – Environmental Humanities Education Center [Lakeview, Montana] Property	\$ 1,648,000	Gifted Property
2016	July	Action	Property Acquisition	UVU	Utah Valley University – Main Campus Property Purchase TAB T	\$ 1,810,000	Institutional
2015	May	Action	Property Acquisition	SLCC	Salt Lake Community College – Westpointe Campus Property Purchase TAB L	\$ 1,837,579	Institutional
2014	July	Action	Property Acquisition	SLCC	Salt Lake Community College – Westpointe Center Property Acquisition TAB N	\$ 2,280,000	Institutional
2014	July	Action	Property Acquisition	UU	University of Utah – Property Purchase TAB J	\$ 5,950,000	Internal Loan
2014	January	Action	Property Acquisition	UVU	Utah Valley University – Purchase of Geneva Steel Property TAB G	\$ 10,018,800	Loan, Donation, Other
2014	July	Action	Property Acquisition	SUU	Southern Utah University – Ratification of Property Gifts for the Beverly Taylor Sorenson Center for the Arts TAB E	None Specified	Gifted Property
2014	November	Action	Property Acquisition	WSU	Weber State University – Purchase of WSU Downtown Building	None Specified	
2015	September	Action	Property Acquisition	UU	University of Utah - Rio Mesa Center Property Gift TAB K	None Specified	
2016	September	Action	Property Disposal	USU	Utah State University – Property disposal in Carbon County TAB K	\$ (840,000)	Sale of Property
2015	May	Action	Property Disposal	SUU	Southern Utah University – Sale of Noncontiguous Property TAB N	\$ (357,000)	Sale of Property
2015	March	Action	Property Disposal	USU	Utah State University – Mixed-use Development Ground Lease TAB N	\$ (230,000)	Sale of Property
2014	November	Action	Property Disposal	UU	University of Utah – Sale of Gifted Residential Property in Arizona	\$ (179,500)	Sale of Property
2014	January	Action	Property Disposal	SLCC	Salt Lake Community College – Sale of Institutional Residence TAB H	None Specified	
2015	March	Action	Property Disposal	DSU	Dixie State University – Sale of Property TAB M	None Specified	
2016	July	Action	Property Disposal	UVU	Utah Valley University – West Campus Boundary Adjustment TAB S	None Specified	
2016	July	Action	Property Disposal	UVU	Utah Valley University – Wasatch Campus Right-of-way Transfer TAB V	None Specified	
2014	July	Action	Lease Purchase	USU	Utah State University – Innovation Campus (Research Park) Lease-purchase Agreement TAB H	None Specified	Research Park
2015	November	Information	Lease	UVU	Utah Valley University – Lease to Wasatch School District TAB S	\$ 1	Lease to School District
2014	January	Information	Property Acquisition	DSU	Dixie State University – Transfer of City of St. George Streets to the University TAB Z	None Specified	Gifted Property
2015	November	Information	Property Acquisition	UU	University of Utah – Acquisition of Heritage Preserve Property TAB R	\$ (225,000)	Settlement
2016	April	Information	Property Acquisition	USU	Utah State University – Property Acquisition TAB P	\$ 278,750	Institutional
2016	September	Information	Property Acquisition	SUU	Southern Utah University – Aviation Program Capital Asset Report TAB U	\$ 3,000,000	Institutional, Loans
2016	July	Information	Property Disposal	UU	University of Utah – Property Disposal TAB DD	\$ (176,000)	Sale of Gifted Property

**R701-1 Purpose:** To establish the respective roles of the State Board of Regents, the Boards of Trustees and the Presidents regarding capital facilities and institutional requests for new capital facility projects.

## R701-2 References

- 2.1. Utah Code §53B-6-101 (Master Plan for Higher Education - Studies and Evaluations)
- 2.2. Utah Code §53B-7-101 (Combined Requests for Appropriations)
- 2.3. Utah Code §53B-20-101 (Property Rights - Title and Control)
- 2.4. Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)
- 2.5. Regent Policy R711, State Building Board Delegation of Capital Facilities Projects
- 2.6. Regent Policy R706, Capital Facilities Master Planning
- 2.7. Regent Policy R741, Capital Development Prioritization

## R701-3 Definitions

- 3.1. **"Capital Facilities"** – Capital Facilities are defined as fixed capital assets such as buildings and structures, real estate, utilities and distribution infrastructure, landscape features, hardscape (surface parking, plazas, sidewalks, and exterior stairs and ramps), roadways, campus lighting, and other improvements that serve and protect the general purposes of an institution.
- 3.2. **"Capital Development"** This policy adopts the definition established in Utah Code 63A-5-104(1)(a).
- 3.3. **"Capital Improvement"** This policy adopts the definition established in Utah Code 63A-5-104(1)(b).
- 3.4. **Remodeling:** includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.

**R701-4 Effective and Efficient Use of Resources:** The Utah System of Higher Education seeks to maximize the effective and efficient use of state resources. Institutions must demonstrate that requests for construction of new capital facilities or remodeling of existing facilities meet the standards of approved academic and facilities master plans. Such justification should consider the availability of state resources and include information relating to student enrollments, space utilization, structural obsolescence, operational inefficiencies, and operating budget constraints.

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

4.1. **Remodeling:** Institutions should remodel existing capital facilities for the purpose of changing the building's function only when the project is justified by and consistent with the institution's mission and in accord with the Board of Regents' previously approved goals and objectives.

#### R701-5. State Funded Capital Projects Approvals

5.1. **Boards of Trustee Review of Requests:** Institutions shall obtain approval from their respective Boards of Trustees before they may submit a request funding for capital development and capital improvement projects to the Board of Regents. Boards of Trustees shall ensure that proposed project requests are consistent with the institution's Master Plan, the role assignment of the institution, and institutional goals and objectives.

5.2. **Commissioner's Office Recommendations:** The Commissioner and his staff shall provide annual recommendations for capital facilities development and improvement projects based on approved prioritization procedures for consideration by the Board in the preparation of its recommendations to the State Building Board, Governor and Legislature.

5.3. **Regent Prioritization of State Funded Projects:** The Board shall annually prioritize capital development projects for the System of Higher Education in accordance with Regent Policy R741, *Capital Development Prioritization*, and submit final recommendations to the State Building Board, the Governor, and the State Legislature.

R701-6. **Submission of Capital Improvement Requests** – Each year institutions shall submit to the Utah State Building Board and the Board of Regents a prioritized list of projects for funding through the state capital improvement program.

6.1. **Board of Trustee Review and Approval:** Boards of Trustees shall approve requests for funding of capital improvement projects prior to institutions submitting requests to the Board of Regents.

6.2. **Board of Regent Review:** Institutions shall submit the annual prioritized list of capital improvement projects to the Office of the Commissioner for inclusion as an informational item for a Board of Regent agenda prior to the legislative session.

6.3. **Non-inclusion of Equipment:** Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement.

6.4. **Non-inclusion of Normal Maintenance:** Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget and may not be included as a component of a capital improvement project. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).

R701-7 **Responsibilities of Institutional Presidents.** Presidents or their designees may:

7.1. **Other Necessary Actions:** Take all necessary actions relating to construction and remodeling activities that do not require State Building Board approval.

7.2. **Routine Repair and Maintenance:** Assume the responsibility for routine repair and maintenance of existing structures or facilities (i.e., painting, roof repair, plumbing and electrical repairs, etc.). Institutions must adhere to the State Building Board facility maintenance standards.



7.3. **Change Orders:** Assume the responsibility to approve and recommend to the DFCM any change orders on projects under construction, as long as funds are available and the change order is within the approved purpose of the project.

7.4. **Accept Completed Facilities:** Accept completed capital facilities from the DFCM.

**R701-1 Purpose:** To ~~clarify~~ establish the respective roles of the State Board of Regents, ~~that of the institutional~~ Boards of Trustees and ~~of the institutional~~ Presidents ~~with respect to~~ regarding capital facilities and institutional requests for new capital facility projects.

## R701-2 References

- 2.1. Utah Code §53B-6-101 (Master Plan for Higher Education - Studies and Evaluations)
- 2.2. Utah Code §53B-7-101 (Combined Requests for Appropriations)
- 2.3. Utah Code §53B-20-101 (Property Rights - Title and Control)
- 2.4. Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)
- 2.5. ~~Policy and Procedures~~ Regent Policy R711, State Building Board Delegation of Capital Facilities Projects
- 2.6. ~~Policy and Procedures R720~~ Regent Policy R706, Capital Facilities Master Planning
- 2.7. Regent Policy R741, Capital Development Prioritization

## R701-3 Definitions

- 3.1. **"Capital Facilities"** – Capital Facilities are defined as fixed capital assets such as buildings and structures, real estate, utilities and distribution infrastructure, landscape features, hardscape (surface parking, plazas, sidewalks, and exterior stairs and ramps), roadways, campus lighting, and other improvements that serve and protect the general purposes of an institution.
- 3.2. **"Capital Development"** This policy adopts the definition established in Utah Code 63A-5-104(1)(a). ~~defines a capital development as any:~~
  - ~~remodeling, site, or utility projects with a total cost of \$2,500,000 or more;~~
  - ~~new facility with a construction cost of \$500,000 or more; or,~~
  - ~~purchase of real property where an appropriation is requested to fund the purchase.~~

~~3.2.1.—"New Facility" means the construction of any new building on state property regardless of funding source, including~~

- ~~an addition to an existing building; and~~
- ~~the enclosure of space that was not previously fully enclosed.~~

~~3.2.2.—"New facility" does not include:~~

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

- the replacement of state-owned space that is demolished, if the total construction cost of the replacement space is less than \$2,500,000; or
- the construction of facilities that do not fully enclose a space.

3.3. "Capital Improvement" This policy adopts the definition established in Utah Code 63A-5-104(1)(b). defines a capital improvement as any:

- remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;
- site and utility improvement with a total cost of less than \$2,500,000; or
- new facility with a total construction cost of less than \$500,000.

Note: The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:

- (i) the capital improvement project or multiple projects require more than one year to complete; and
- (ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.

~~3.3.1.—Submission of Capital Improvement Requests—~~ Each year institutions shall submit to the Division of Facilities Construction and Management (DFCM) a prioritized list of projects for funding through the state capital improvement program. Requests for funding of Capital Improvement Projects shall be approved by institutional Boards of Trustees. Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement. Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).

3.4. "~~Capital Investment Plan~~": ~~Integrated scheduling of capital developments and improvements over a five year planning period.~~ Remodeling: includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.

#### R701-4 Policy

~~4.1.—Statutory Authority: Title 53B outlines the broad responsibilities of the State Board of Regents in administering the facilities, grounds, buildings and equipment at institutions under its jurisdiction. These policies and procedures are issued under that authority to clarify the roles to be assigned to the institutional Presidents, the institutional Boards of Trustees and the State Board of Regents.~~

~~4.2.—Purpose: The purpose of these policies is to develop and maintain a well-planned, harmonious and safe physical environment for student achievement and personal growth on each of the institutional campuses of the State System of Higher Education in accordance with the applicable provisions of Title 53B.~~

**4.3. Effective and Efficient Use of Resources:** The Utah System of Higher Education seeks to maximize the effective and efficient use of state resources. Institutions must demonstrate that requests for construction of new capital facilities or remodeling of existing facilities meet the standards of approved academic and facilities master plans. Such justification should consider the availability of state resources

and include information relating to student enrollments, space utilization, structural obsolescence, operational inefficiencies, and operating budget constraints.

**4.41. Remodeling:** ~~Institutions should~~ Remodeling of remodel existing capital facilities for the purpose of changing the building's function ~~will be undertaken~~ only when the ~~need for such a~~ project is justified by and ~~is~~ consistent with the ~~role assignment of~~ the institution's mission ~~involved~~ and in accord with the Board of Regents' previously approved goals and objectives ~~set by the State Board of Regents~~. ~~The term "remodeling" as used herein includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.~~

#### ~~4.5R701-5. The State Board of Regents Will:~~ State Funded Capital Projects Approvals

**5.1. Boards of Trustee Review of Requests:** Institutions shall obtain approval from their respective Boards of Trustees before they may submit a request funding for capital development and capital improvement projects to the Board of Regents. Boards of Trustees shall ensure that proposed project requests are consistent with the institution's Master Plan, the role assignment of the institution, and institutional goals and objectives.

~~4.5.1. Programmatic Planning—Require institutions to undertake comprehensive programmatic planning as part of comprehensive programmatic planning for the Utah System of Higher Education. This programmatic planning will inform the evaluation of any proposals for planning and construction of additional capital facilities.~~

~~4.5.2. Campus Facilities Master Plans—Require comprehensive campus facilities master plans to be completed and approved for each institution in correlation with programmatic planning. Each institution shall seek formal Regent approval of its campus master plan on a biennial basis.~~

~~4.5.3. Requests for Capital Development Projects That Require Utah State Building Board or Utah State Legislature Approval—Review and authorize institutional requests for capital development projects that require Building Board or Legislative approval. Such requests shall be based upon the programmatic planning and facilities master plan requirements of the institutions and shall be presented to the Regents for authorization prior to their presentation to the Building Board for approval or recommendation to the Legislature for final approval or funding. The requests to be submitted to the Regents for authorization include:~~

~~4.5.3.1. Requests for Capital Development Projects to be funded by the Legislature—These projects are generally authorized in the annual capital development project cycle and are subject to the procedures and requirements of Policy R741, Capital Development Prioritization—CDP.~~

~~4.5.3.2. Projects Funded Entirely from Non-state Appropriated Funds—Projects in this category that require Regents' approval are described in sections 4.5.7. and 4.5.8. below.~~

~~4.5.3.3. Projects for which Legislative Revenue Bonding Authorization is Required—Requirements for seeking bonding authorization are included in section 4.2. of Policy R590, Issuance of Revenue Bonds for Facilities Construction, Facilities Acquisition, or Equipment.~~

~~4.5.3.4. Requests to use Donated or Institutional Funds for Planning and Design—Requests to the Building Board for approval to use donated or~~

institutional funds for planning and design of proposed capital development projects require prior Regents' authorization.

#### 4.5.4. Acquisition and Disposal of Real Property

**4.5.4.1 Property Acquisitions Requiring Approval**—Except as provided by 4.5.4.2 below, The Regents shall review and consider for approval all institutional requests for real property acquisition that commit institutional funds in excess of \$100,000 or where consideration paid for options to acquire property commits institutional funds in excess of \$25,000. The following provisions and guidelines will be utilized by the Regents in authorizing the acquisition of real properties:

**4.5.4.1.1. Required Appraisal**—For acquisitions of property by purchase or exchange a fair market value of property shall be established that is based on an appraisal completed by a State of Utah licensed MAI appraiser with the purchase price not to exceed the appraised value unless otherwise justified.

**4.5.4.1.2. Guidelines**—The following guidelines will be utilized to the extent reasonably practicable for review and approval of real properties to be acquired by purchase, exchange or to be accepted as gifts designated for ongoing institutional use, regardless of the location of the property. The Board of Regents recognizes that, based on the diverse circumstances of specific properties, application of all these guidelines in every case may not be achievable or required.

**4.5.4.1.2.1. Proof of Clear Title**—Established by a title report or an owner's policy of title insurance if such title is deemed to be necessary.

**4.5.4.1.2.2. Phase I Environmental Assessment or Greater**—A Phase I or greater Environmental Assessment may be required by the Regents prior to purchase, exchange, or acceptance of a gifted property when there are questions about the possibility of environmental issues that would materially affect the use of the property.

**4.5.4.1.2.3. Code and Requirements Review**—Utilized to determine the suitability of a property under all applicable codes and requirements, including any applicable provisions of State law.

**4.5.4.1.2.4. Engineering Assessment**—For all improved real property valued at \$250,000 or above the institution should obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. This need may be waived if an engineering assessment has been performed within the past 12 months or if the land is unimproved. The institution may perform an engineering assessment for real property valued at less than \$250,000.

**4.5.4.1.2.5. Past Maintenance and Operational Expenses**—Where possible, past maintenance and operational expense histories should be obtained.

~~4.5.4.1.2.6. Sites, Zoning, and Planning Information—This information should be obtained where applicable or when it is determined to be needed.~~

~~4.5.4.1.2.7. Land Survey—An Alta/ACSM Land Title Survey should be obtained unless such a survey has been performed in the prior 12 months.~~

~~4.5.4.2. Property Acquisitions Adjacent to Campuses—The State Board of Regents delegates the authority to the institutional Boards of Trustees to engage in property purchase transactions if a property purchase meets the above conditions with the following limitations:~~

~~4.5.4.2.1.—Property needs to be identified on the approved campus master plan and must be contiguous to the current campus boundary.~~

~~4.5.4.2.2.—Property purchased cannot exceed \$500,000 for properties purchased by the UU, WSU, SLCC, UVU, USU and DSU, \$400,000 for SUU and \$250,000 for Snow and USU—Eastern.~~

~~4.5.4.2.3.—All purchases must have a supporting appraisal; made by a licensed appraiser, where the purchase price cannot exceed the MAI appraised value~~

~~4.5.4.2.4.—Property purchased with endowment funds or independent foundations does not need approval from the Board of Regents, regardless of cost.~~

~~4.5.4.2.5.—This delegation of purchasing authority is only available in instances where no O & M funds will be requested. If there is a need for operations and maintenance funds, the purchase needs to be approved through the normal Regent process.~~

~~4.5.4.2.6. Reporting of Property Acquisitions—Institutions engaging in a purchase of property utilizing the above authority are required to report the purchase at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.4.3. Real Property Donated to Institutions Related to Development and Fund Raising Initiatives—Acceptance of gifts of real property expected to be sold by the institution with proceeds to be assigned to designated purposes, or to be used for institutional needs not specified by the donor is delegated to the institutional presidents within institutional gift acceptance standards and procedures approved by the Boards of Trustees.~~

~~4.5.4.4. Disposal of Property—Except as provided by 4.5.4.4 below, all disposal of real property by USHE institutions is subject to approval by the Regents.~~

~~4.5.4.4.1. Determination of Surplus Property—If the real property is determined to not serve the institution's mission and is, therefore, surplus real property it is eligible for sale or exchange on the open market.~~

~~4.5.4.4.2. Fair Market Value—Unless otherwise justified, surplus real property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser.~~

~~4.5.4.5. Disposition of Donated or Gifted Property that is not Contiguous to Campuses—The State Board of Regents delegates to the institutional Boards of Trustees the authority to dispose of donated or gifted real property that is not contiguous to campus boundaries subject to the following conditions:~~

~~4.5.4.5.1. The disposal price cannot exceed \$500,000 for properties disposed of by the UU, USU, WSU, SLCC, UVU and DSU, \$400,000 for SUU; and \$250,000 for Snow and USU-Eastern.~~

~~4.5.4.5.2. The property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser unless:~~

- ~~a) the value of the property does not warrant the cost of the appraisal (e.g., low valued recreational property or seriously deteriorated properties, where sale proceeds would be seriously reduced or eliminated due to the cost of obtaining an appraisal);~~
- ~~b) the gifted property has preexisting conditions that affect the future sales price (e.g., an undivided property interest with the sale controlled by the majority holders, or the property comes from a donor with a sale or price already negotiated or in process with a buyer)~~

~~4.5.4.5.3. Reporting of Property Disposals—Institutions engaging in disposal of property utilizing the above authority are required to report the disposal at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.6. Approval of Projects that are inconsistent with Approved Institutional Roles, Goals and Objectives—The Regents will review and approve, as they deem appropriate, all other institutional requests for planning and construction of facilities, or major remodeling of existing facilities, regardless of the source of funds to be used for such activity, where the proposed construction or remodeling is inconsistent with the role assignment of the institution involved, is not in accord with institutional goals and objectives previously approved by the State Board of Regents, which will require a substantial change in the approved programmatic planning or facilities master plan, or where the construction or remodeling is subject to legislative project approval. Further, all requests for operations and maintenance (O & M) funding require approval by the State Board of Regents. Delegation can occur in the following circumstances:~~

~~4.5.7. Projects Funded from Non-State Appropriated Funds—Review and approve institutional project requests for planning and construction of facilities, or remodeling of existing facilities, for which no appropriation of state funds or authority to incur bonded indebtedness is requested, as follows:~~

~~4.5.7.1. Funded from Student Fees, Contractual Debt, or Disposal or Exchange of Capital Assets: Proposals for projects funded in whole or in part from an adjustment in~~

student fees, incurring of contractual debt, or the disposal or exchange of land or other capital assets shall be approved by the institutional Board of Trustees prior to submission to the Board of Regents.

**4.5.7.2.—Funded from Private Sources:** Major construction or remodeling projects (defined as projects costing more than \$1,000,000) funded through private sources or a combination of private sources and other non-state funds shall be approved by the institutional Board of Trustees. Upon trustee approval, the institutional President shall submit the project to the Commissioner for inclusion as an action item on an upcoming Board of Regents agenda.

**4.5.8.—Operating and Maintenance (O & M) Costs on Non-State Funded Projects:** (a) An acquisition, construction or remodeling project funded from private sources, or from a combination of private sources and other non-state appropriated funds will be eligible for state appropriated O & M when the use of the building is primarily for approved academic and training purposes and associated support and is consistent with the programmatic planning and facilities master plan requirements of the institutions. Examples of such space include classrooms, class/labs, faculty and education and general administrative offices and related space, library and study space, open labs, education and general conference rooms, physical education space, and academic and approved training support space, i.e., admissions, records, counseling, student aid administration, campus security, computer center and telecommunication space, etc.. If an academic facility, funded in whole or in part by non-state funds, is built to a scale larger than Board approved programmatic or facilities planning requirements, the excess space may not qualify for state appropriated O & M funding. The Board will consider the eligibility of the institution to receive state O & M funding for such excess space on a case-by-case basis.

(b) In most cases, if the acquisition, construction or remodeling project is not primarily for approved academic and training purposes or associated support, it will not be eligible for state appropriated O & M funding. Examples of such space might include research space not generating student credits or the equivalent thereto, football stadia, softball, baseball, soccer fields, basketball arenas, self-support auxiliary space, i.e., college bookstores, food service, student housing, recreational services, student organizations, private vendors and student health services spaces, etc.

(c) The Board, on a case-by-case basis, may determine that an acquisition, construction or remodeling project to be used primarily for purposes other than approved academic and training purposes and associated support should be eligible for state appropriated O & M funds in whole or in part. Each request for such Board consideration must be accompanied by a detailed statement showing how space types included in the facility will relate to important institutional activities such as instruction, research generating student credits, and service within the institution's role statement. Examples of such space might include museums, theaters, community outreach and research spaces administered by academic units that generate academic student credits or the equivalent thereto, etc.

**4.5.8.1.—O & M Funding Sources for Projects Not Eligible for State Appropriated O & M:** In those cases where property acquisitions, construction, or remodeling projects are not eligible for state appropriated O & M funding, the institutional proposal must include arrangements as to how O & M as defined by the State Building Board will be covered. Institutions are to pursue O & M funding in the following sequence for such ineligible non-state funded facilities: first, separate non-state funding assured through private contracts or an O & M endowment established by a private donor; and second, an institutional O &



~~M funding plan with additional revenue to support the new space to be credited to its O & M accounts.~~

~~**4.5.8.2.— Board Approval of O & M Funding Plan:** The institutional O & M funding plan must be consistent with the provisions of 4.5.6 and 4.5.6.1 to receive Regents' acquisition, construction or remodeling project approval. Increased consideration for state appropriated O & M will be given to projects previously listed in the Utah State Building Board Five Year Building Program. Board approval of the acquisition of the facility shall include approval of a plan to fund the O & M costs, including the source of the funds and the projected amount needed. Further approval of such proposals, when legally required by the State Building Board and the Legislature, will follow their respective established procedures.~~

~~**4.5.9.— Leased Space:** Review and approve institutional requests for plans to lease capital facilities space with state appropriated funds for programs of instruction, research, or service when contracts for leasing such facilities: (1) exceed \$100,000 per year; (2) commit the institution to space rentals for 10 year duration or beyond; or (3) lead to the establishment of regular state-supported daytime programs of instruction in leased space. An annual report of all space leased by the institutions, including space leased for off campus continuing education programs and space leased in research parks, shall be compiled by the Commissioner's Office for review by the Board of Regents and forwarded to the State Building Board for possible inclusion its comprehensive 5-year building plan.~~

~~**4.6.— The Commissioner Is Authorized to:**~~

~~**4.6.1.— Recommendations:**~~

~~**5.2 Commissioner's Office Recommendations:** The Commissioner and his staff shall provide~~ Propose annual recommendations for capital facilities development and improvement projects based on approved ~~capital facilities qualification and~~ prioritization procedures for consideration by the Board in the preparation of its recommendations to the State Building Board, Governor and Legislature.

~~**5.3 Regent Prioritization of State Funded Projects:** The Board shall annually prioritize capital development projects for the System of Higher Education in accordance with Regent Policy R741, *Capital Development Prioritization*, and submit final recommendations to the State Building Board, the Governor, and the State Legislature.~~

~~**4.7.— Institutional Boards of Trustees Are Authorized to:**~~

~~**4.7.1.— Facilities Master Plans:** Review and approve institutional campus facilities master plans before they are forwarded to the State Board of Regents.~~

~~**4.7.2.— Requests for Appropriated Funds:** Review and approve for submission to the State Board of Regents all institutional requests for funds for capital developments and capital improvements to be appropriated by the State Legislature through the State Building Board.~~

~~**4.7.3.— Inconsistent Projects:** Review and approve all other institutional proposals relating to planning or construction of capital facilities, or major remodeling of existing capital facilities that require State Building Board approval and/or legislative project approval, regardless of the source of funds to be used for such activity, except to the extent that responsibility has been delegated to the institutional President as specified below in section 4.8. These actions will be reported to the~~

~~State Board of Regents monthly as a part of the institutional Board of Trustees minutes, and will include planning and budget reports in the form prescribed by the Commissioner or other appropriate description and justification.~~

~~Proposals for inconsistent projects must be forwarded to the State Board of Regents by the institutional President, together with the institutional Board of Trustees' recommendations, for review and action by the Regents if:~~

- ~~• construction or remodeling is contrary to or will require substantial change in the approved programmatic planning or facility master plans;~~
- ~~• is inconsistent with the role assignment of the institution involved; or,~~
- ~~• is not in accord with previously approved institutional goals or objectives.~~

~~4.7.4.—Public Hearings: Conduct all required public hearings on any project, provided that adequate notice be given the State Board of Regents of any such required public hearings.~~

R701-6. Submission of Capital Improvement Requests – Each year institutions shall submit to the Utah State Building Board and the Board of Regents a prioritized list of projects for funding through the state capital improvement program.

6.1. Board of Trustee Review and Approval: Boards of Trustees shall approve requests for funding of capital improvement projects prior to institutions submitting requests to the Board of Regents.

6.2. Board of Regent Review: Institutions shall submit the annual prioritized list of capital improvement projects to the Office of the Commissioner for inclusion as an informational item for a Board of Regent agenda prior to the legislative session.

6.3. Non-inclusion of Equipment: Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement.

6.4. Non-inclusion of Normal Maintenance: Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget and may not be included as a component of a capital improvement project. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).

R701-7 Responsibilities of ~~4.8.~~ Institutional Presidents. ~~Are Authorized to~~ Presidents or their designees may:

~~4.87.1. Other Necessary Actions: Take all necessary actions relating to construction and remodeling activities that do not require State Building Board approval.~~

~~4.87.2. Routine Repair and Maintenance: Assume the responsibility for routine repair and maintenance of existing structures or facilities (i.e., painting, roof repair, plumbing and electrical repairs, etc.). Institutions must adhere to the State Building Board facility maintenance standards.~~

~~4.87.3. Change Orders: Assume the responsibility to approve and recommend to the DFCM any change orders on projects under construction, as long as funds are available and the change order is within the approved purpose of the project.~~

**4.87.4. Accept Completed Facilities:** Accept completed capital facilities from the DFCM.

**R02-1 Purpose:** To provide guidelines and requirements for institutional requests to program, plan, design, or construct a facility using non-state funds.

## R710-2 Definitions

**2.1. Non-State Funded Project:** any capital development project whose source of funding comes from anything other than state funds appropriated by the Utah State Legislature.

**2.2. Capital Development:** has the same definition as Utah Code 63A-5-104(1)(a).

**R702-3 Requests for Non-State Funded Projects:** Regardless of the funding source, the Board of Regents shall review and authorize institutional requests for non-state funded projects that require Building Board or Legislative approval before the requests are submitted to those bodies. Such requests shall be based upon the programmatic planning and facilities master planning requirements of Regent Policy R707, *Capital Facilities Master Planning*. Types of funding sources include:

**3.1. Projects Funded from Student Fees, Contractual Debt, or Disposal or Exchange or Capital Assets:** Proposals for capital development projects funded in whole or in part from an adjustment in student fees, incurring of contractual debt, or the disposal or exchange of land or other capital assets shall be approved by the institutional Board of Trustees prior to submission to the Board of Regents.

**3.2. Projects Funded from Private Sources:** The institutional Board of Trustees must approve capital development projects funded through private sources or a combination of private sources and other non-state funds before the president may submit the request to the Board of Regents for consideration.

**3.3. Projects for which Legislative Revenue Bonding Authorization is Required:** Institutions shall submit capital development projects requiring revenue bonding to the Board of Regents for approval as required by Regent Policy R590, *Issuance of Revenue Bonds for Higher Education*.

**3.4. Requests to use Donated or Institutional Funds for Planning and Design:** Requests to the Building Board for approval to use donated or institutional funds for planning and design of proposed capital development projects require prior Regents' authorization.

**R702-4. Operating and Maintenance (O & M) Costs on Non-State Funded Projects:** A capital development project funded from private sources, or from a combination of private sources and other non-state appropriated funds will be eligible for state appropriated O & M when the use of the building is primarily for approved academic and training purposes and associated support and is consistent with the institution's programmatic planning and facilities master plan requirements.

**4.1 Excess Space:** If an academic facility, funded in whole or in part by non-state funds, is built to a scale larger than Board approved programmatic or facilities planning requirements, the excess space may not qualify for state appropriated O & M funding. The Board will consider the eligibility of the institution to receive state O & M funding for such excess space on a case-by-case basis.

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

**4.2. Non-Academic Space:** In most cases, a capital development project that is not primarily for approved for academic and training purposes or associated support, it will not be eligible for state appropriated O & M funding. If the institution requests to the Board of Regents to allow state-funded O & M, it shall include a detailed statement showing how space types included in the facility will relate to important institutional activities.

**4.3. O & M Funding Sources for Projects Not Eligible for State Appropriated O & M:** In those cases where property acquisitions, construction, or remodeling projects are not eligible for state appropriated O & M funding, the institution's proposal must explain how it will pay the ongoing O & M as defined by the State Building Board. When making arrangements for ongoing O & M funding, institutions shall give first priority to separate non-state funding assured through private contracts or an O & M endowment established by a private donor; second, an institutional O & M funding plan with additional revenue to support the new space to be credited to its O & M accounts.

**R02-1 Purpose:** ~~To clarify the role of the State Board of Regents, that of the institutional Boards of Trustees and of the institutional Presidents with respect to capital facilities~~ to provide guidelines and requirements for institutional requests to program, plan, design, or construct a facility using non-state funds.

## R710-2 **References**

- ~~2.1. Utah Code §53B-6-101 (Master Plan for Higher Education – Studies and Evaluations)~~
  - ~~2.2. Utah Code §53B-7-101 (Combined Requests for Appropriations)~~
  - ~~2.3. Utah Code §53B-20-101 (Property Rights – Title and Control)~~
  - ~~2.4. Utah Code Title 63A, Chapter 5 (State Building Board – Division of Facilities Construction and Management)~~
  - ~~2.5. Policy and Procedures R711, State Building Board Delegation of Capital Facilities Projects~~
  - ~~2.6. Policy and Procedures R720, Capital Facilities Master Planning~~
- Definitions

2.1. **Non-State Funded Project:** any capital development project whose source of funding comes from anything other than state funds appropriated by the Utah State Legislature.

2.2. **Capital Development:** has the same definition as Utah Code 63A-5-104(1)(a).

## R702-3 **Definitions**

~~3.1. **“Capital Facilities”** – Capital Facilities are defined as fixed capital assets such as buildings and structures, real estate, utilities and distribution infrastructure, landscape features, hardscape (surface parking, plazas, sidewalks, and exterior stairs and ramps), roadways, campus lighting, and other improvements that serve and protect the general purposes of an institution.~~

~~3.2. **“Capital Development”** – Utah Code 63A-5-104(1)(a) defines a capital development as any:~~

- ~~• remodeling, site, or utility projects with a total cost of \$2,500,000 or more;~~
- ~~• new facility with a construction cost of \$500,000 or more; or,~~
- ~~• purchase of real property where an appropriation is requested to fund the purchase.~~

~~3.2.1. **“New Facility”** means the construction of any new building on state property regardless of funding source, including~~

- ~~• an addition to an existing building; and~~
- ~~• the enclosure of space that was not previously fully enclosed.~~

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

~~3.2.2. "New facility" does not include:~~

- ~~• the replacement of state-owned space that is demolished, if the total construction cost of the replacement space is less than \$2,500,000; or~~
- ~~• the construction of facilities that do not fully enclose a space.~~

~~3.3. "Capital Improvement" Utah Code 63A-5-104(1)(b) defines a capital improvement as any:~~

- ~~• remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;~~
- ~~• site and utility improvement with a total cost of less than \$2,500,000; or~~
- ~~• new facility with a total construction cost of less than \$500,000.~~

~~Note: The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:~~

- ~~(i) the capital improvement project or multiple projects require more than one year to complete; and~~
- ~~(ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.~~

~~3.3.1. Submission of Capital Improvement Requests— Each year institutions shall submit to the Division of Facilities Construction and Management (DFCM) a prioritized list of projects for funding through the state capital improvement program. Requests for funding of Capital Improvement Projects shall be approved by institutional Boards of Trustees. Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement. Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).~~

~~3.4. "Capital Investment Plan": Integrated scheduling of capital developments and improvements over a five year planning period.~~

## ~~R710-4 Policy~~

~~4.1. Statutory Authority: Title 53B outlines the broad responsibilities of the State Board of Regents in administering the facilities, grounds, buildings and equipment at institutions under its jurisdiction. These policies and procedures are issued under that authority to clarify the roles to be assigned to the institutional Presidents, the institutional Boards of Trustees and the State Board of Regents.~~

~~4.2. Purpose: The purpose of these policies is to develop and maintain a well-planned, harmonious and safe physical environment for student achievement and personal growth on each of the institutional campuses of the State System of Higher Education in accordance with the applicable provisions of Title 53B.~~

~~4.3. Effective and Efficient Use of Resources: The Utah System of Higher Education seeks to maximize the effective and efficient use of state resources. Institutions must demonstrate that requests for construction of new capital facilities or remodeling of existing facilities meet the standards of approved academic and facilities master plans. Such justification should consider the availability of state resources~~

and include information relating to student enrollments, space utilization, structural obsolescence, operational inefficiencies, and operating budget constraints.

**4.4. — Remodeling:** Remodeling of existing capital facilities for the purpose of effecting a change in functions will be undertaken only when the need for such a project is justified by and is consistent with the role assignment of the institution involved and in accord with previously approved goals and objectives set by the State Board of Regents. The term "remodeling" as used herein includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.

**4.5. — The State Board of Regents Will:**

**4.5.1. Programmatic Planning** — Require institutions to undertake comprehensive programmatic planning as part of comprehensive programmatic planning for the Utah System of Higher Education. This programmatic planning will inform the evaluation of any proposals for planning and construction of additional capital facilities.

**4.5.2. Campus Facilities Master Plans** — Require comprehensive campus facilities master plans to be completed and approved for each institution in correlation with programmatic planning. Each institution shall seek formal Regent approval of its campus master plan on a biennial basis.

**4.5.3. Requests for Capital Development Projects That Require Utah State Building Board or Utah State Legislature Approval** — Review and authorize institutional requests for capital development projects that require Building Board or Legislative approval. Such requests shall be based upon the programmatic planning and facilities master plan requirements of the institutions and shall be presented to the Regents for authorization prior to their presentation to the Building Board for approval or recommendation to the Legislature for final approval or funding. The requests to be submitted to the Regents for authorization include:

**4.5.3.1. Requests for Capital Development Projects to be Funded by the Legislature** — These projects are generally authorized in the annual capital development project cycle and are subject to the procedures and requirements of Policy R741, Capital Development Prioritization — CDP.

**4.5.3.2. Projects Funded Entirely from Non-state Appropriated Funds** — Projects in this category that require Regents' approval are described in sections 4.5.7. and 4.5.8. below.

**4.5.3.3. Projects for which Legislative Revenue Bonding Authorization is Required** — Requirements for seeking bonding authorization are included in section 4.2. of Policy R590, Issuance of Revenue Bonds for Facilities Construction, Facilities Acquisition, or Equipment.

**4.5.3.4. Requests to use Donated or Institutional Funds for Planning and Design** — Requests to the Building Board for approval to use donated or institutional funds for planning and design of proposed capital development projects require prior Regents' authorization.

**4.5.4. Acquisition and Disposal of Real Property**

**4.5.4.1 Property Acquisitions Requiring Approval** — Except as provided by 4.5.4.2 below, The Regents shall review and consider for approval all institutional requests for



real property acquisition that commit institutional funds in excess of \$100,000 or where consideration paid for options to acquire property commits institutional funds in excess of \$25,000. The following provisions and guidelines will be utilized by the Regents in authorizing the acquisition of real properties:

**4.5.4.1.1. Required Appraisal**—For acquisitions of property by purchase or exchange a fair market value of property shall be established that is based on an appraisal completed by a State of Utah licensed MAI appraiser with the purchase price not to exceed the appraised value unless otherwise justified.

**4.5.4.1.2. Guidelines**—The following guidelines will be utilized to the extent reasonably practicable for review and approval of real properties to be acquired by purchase, exchange or to be accepted as gifts designated for ongoing institutional use, regardless of the location of the property. The Board of Regents recognizes that, based on the diverse circumstances of specific properties, application of all these guidelines in every case may not be achievable or required.

**4.5.4.1.2.1. Proof of Clear Title**—Established by a title report or an owner's policy of title insurance if such title is deemed to be necessary.

**4.5.4.1.2.2. Phase I Environmental Assessment or Greater**—A Phase I or greater Environmental Assessment may be required by the Regents prior to purchase, exchange, or acceptance of a gifted property when there are questions about the possibility of environmental issues that would materially affect the use of the property.

**4.5.4.1.2.3. Code and Requirements Review**—Utilized to determine the suitability of a property under all applicable codes and requirements, including any applicable provisions of State law.

**4.5.4.1.2.4. Engineering Assessment**—For all improved real property valued at \$250,000 or above the institution should obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. This need may be waived if an engineering assessment has been performed within the past 12 months or if the land is unimproved. The institution may perform an engineering assessment for real property valued at less than \$250,000.

**4.5.4.1.2.5. Past Maintenance and Operational Expenses**—Where possible, past maintenance and operational expense histories should be obtained.

**4.5.4.1.2.6. Situs, Zoning, and Planning Information**—This information should be obtained where applicable or when it is determined to be needed.

**4.5.4.1.2.7. Land Survey**—An Alta/ACSM Land Title Survey should be obtained unless such a survey has been performed in the prior 12 months.

~~4.5.4.2. Property Acquisitions Adjacent to Campuses—The State Board of Regents delegates the authority to the institutional Boards of Trustees to engage in property purchase transactions if a property purchase meets the above conditions with the following limitations:~~

~~4.5.4.2.1.—Property needs to be identified on the approved campus master plan and must be contiguous to the current campus boundary.~~

~~4.5.4.2.2.—Property purchased cannot exceed \$500,000 for properties purchased by the UU, WSU, SLCC, UVU, USU and DSU, \$400,000 for SUU and \$250,000 for Snow and USU Eastern.~~

~~4.5.4.2.3.—All purchases must have a supporting appraisal, made by a licensed appraiser, where the purchase price cannot exceed the MAI appraised value~~

~~4.5.4.2.4.—Property purchased with endowment funds or independent foundations does not need approval from the Board of Regents, regardless of cost.~~

~~4.5.4.2.5.—This delegation of purchasing authority is only available in instances where no O & M funds will be requested. If there is a need for operations and maintenance funds, the purchase needs to be approved through the normal Regent process.~~

~~4.5.4.2.6. Reporting of Property Acquisitions—Institutions engaging in a purchase of property utilizing the above authority are required to report the purchase at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.4.3. Real Property Donated to Institutions Related to Development and Fund Raising Initiatives—Acceptance of gifts of real property expected to be sold by the institution with proceeds to be assigned to designated purposes, or to be used for institutional needs not specified by the donor is delegated to the institutional presidents within institutional gift acceptance standards and procedures approved by the Boards of Trustees.~~

~~4.5.4.4. Disposal of Property—Except as provided by 4.5.4.4 below, all disposal of real property by USHE institutions is subject to approval by the Regents.~~

~~4.5.4.4.1. Determination of Surplus Property—If the real property is determined to not serve the institution's mission and is, therefore, surplus real property it is eligible for sale or exchange on the open market.~~

~~4.5.4.4.2. Fair Market Value—Unless otherwise justified, surplus real property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser.~~

~~4.5.4.5. Disposition of Donated or Gifted Property that is not Contiguous to Campuses—The State Board of Regents delegates to the institutional Boards of Trustees the authority to dispose of donated~~

or gifted real property that is not contiguous to campus boundaries subject to the following conditions:

~~4.5.4.5.1. The disposal price cannot exceed \$500,000 for properties disposed of by the UU, USU, WSU, SLCC, UVU and DSU, \$400,000 for SUU; and \$250,000 for Snow and USU-Eastern.~~

~~4.5.4.5.2. The property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser unless:~~

- ~~a) the value of the property does not warrant the cost of the appraisal (e.g., low valued recreational property or seriously deteriorated properties, where sale proceeds would be seriously reduced or eliminated due to the cost of obtaining an appraisal);~~
- ~~b) the gifted property has preexisting conditions that affect the future sales price (e.g., an undivided property interest with the sale controlled by the majority holders, or the property comes from a donor with a sale or price already negotiated or in process with a buyer)~~

~~4.5.4.5.3. Reporting of Property Disposals—Institutions engaging in disposal of property utilizing the above authority are required to report the disposal at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.6. Approval of Projects that are inconsistent with Approved Institutional Roles, Goals and Objectives—The Regents will review and approve, as they deem appropriate, all other institutional requests for planning and construction of facilities, or major remodeling of existing facilities, regardless of the source of funds to be used for such activity, where the proposed construction or remodeling is inconsistent with the role assignment of the institution involved, is not in accord with institutional goals and objectives previously approved by the State Board of Regents, which will require a substantial change in the approved programmatic planning or facilities master plan, or where the construction or remodeling is subject to legislative project approval. Further, all requests for operations and maintenance (O & M) funding require approval by the State Board of Regents. Delegation can occur in the following circumstances:~~

~~4.5.7. Requests for Projects Funded from Non-State Appropriated Funds Funded Projects – Regardless of the funding source, the Board of Regents shall review and approve authorize institutional project requests for non-state funded projects planning and construction of facilities, or remodeling of existing facilities, for which no appropriation of state funds or authority to incur bonded indebtedness is requested, as follows that require Building Board or Legislative approval before the requests are submitted to those bodies. Such requests shall be based upon the programmatic planning and facilities master planning requirements of Regent Policy R707, Capital Facilities Master Planning. Types of funding sources include:~~

~~4.5.7.13.1. Projects Funded from Student Fees, Contractual Debt, or Disposal or Exchange or Capital Assets: Proposals for capital development projects funded in whole or in part from an adjustment in student fees, incurring of contractual debt, or the disposal or exchange of land or other capital assets shall be approved by the institutional Board of Trustees prior to submission to the Board of Regents.~~

~~4.5.7.23.2. **Projects Funded from Private Sources:** Major construction or remodeling projects (defined as projects costing more than \$1,000,000) The institutional Board of Trustees must approve capital development projects funded through private sources or a combination of private sources and other non-state funds shall be approved by the institutional Board of Trustees before the president may submit the request to the Board of Regents for consideration. Upon trustee approval, the institutional President shall submit the project to the Commissioner for inclusion as an action item on an upcoming Board of Regents agenda.~~

3.3. Projects for which Legislative Revenue Bonding Authorization is Required: Institutions shall submit capital development projects requiring revenue bonding to the Board of Regents for approval as required by Regent Policy R590, *Issuance of Revenue Bonds for Higher Education*.

3.4. Requests to use Donated or Institutional Funds for Planning and Design: Requests to the Building Board for approval to use donated or institutional funds for planning and design of proposed capital development projects require prior Regents' authorization.

~~4.5.8 R702-4. **Operating and Maintenance (O & M) Costs on Non-State Funded Projects:** (a) An acquisition, construction or remodeling A capital development project funded from private sources, or from a combination of private sources and other non-state appropriated funds will be eligible for state appropriated O & M when the use of the building is primarily for approved academic and training purposes and associated support and is consistent with the institution's programmatic planning and facilities master plan requirements of the institutions. Examples of such space include classrooms, class/labs, faculty and education and general administrative offices and related space, library and study space, open labs, education and general conference rooms, physical education space, and academic and approved training support space, i.e., admissions, records, counseling, student aid administration, campus security, computer center and telecommunication space, etc.~~

4.1 Excess Space: If an academic facility, funded in whole or in part by non-state funds, is built to a scale larger than Board approved programmatic or facilities planning requirements, the excess space may not qualify for state appropriated O & M funding. The Board will consider the eligibility of the institution to receive state O & M funding for such excess space on a case-by-case basis.

4.2 Non-Academic Space: In most cases, if the acquisition, construction or remodeling a capital development project that is not primarily for approved for academic and training purposes or associated support, it will not be eligible for state appropriated O & M funding. Examples of such space might include research space not generating student credits or the equivalent thereto, football stadia, softball, baseball, soccer fields, basketball arenas, self support auxiliary space, i.e., college bookstores, food service, student housing, recreational services, student organizations, private vendors and student health services spaces, etc.

~~(c) The Board, on a case by case basis, may determine that an acquisition, construction or remodeling project to be used primarily for purposes other than approved academic and training purposes and associated support should be eligible for state appropriated O & M funds in whole or in part. If the institution requests to the Board of Regents to allow state-funded O & M, it shall include Each request for such Board consideration must be accompanied by a detailed statement showing how space types included in the facility will relate to important institutional activities such as instruction, research generating student credits, and service within the institution's role statement. Examples of such space might include museums, theaters, community outreach and research spaces administered by academic units that generate academic student credits or the equivalent thereto, etc.~~

~~4.5.8.1. 4.3 **O & M Funding Sources for Projects Not Eligible for State Appropriated O & M:** In those cases where property acquisitions, construction, or remodeling projects are not eligible for state~~

appropriated O & M funding, the institution's proposal must ~~include arrangements as to~~ explain how it will pay the ongoing O & M as defined by the State Building Board ~~will be covered.~~ When making arrangements for ongoing ~~Institutions are to pursue~~ O & M funding, institutions shall give first priority to ~~in the following sequence for such ineligible non-state funded facilities:~~ first, separate non-state funding assured through private contracts or an O & M endowment established by a private donor; second, an institutional O & M funding plan with additional revenue to support the new space to be credited to its O & M accounts.

~~4.5.8.2.—Board Approval of O & M Funding Plan:~~ The institutional O & M funding plan must be consistent with the provisions of 4.5.6 and 4.5.6.1 to receive Regents' acquisition, construction or remodeling project approval. ~~Increased consideration for state appropriated O & M will be given to projects previously listed in the Utah State Building Board Five Year Building Program. Board approval of the acquisition of the facility shall include approval of a plan to fund the O & M costs, including the source of the funds and the projected amount needed. Further approval of such proposals, when legally required by the State Building Board and the Legislature, will follow their respective established procedures.~~

~~4.5.9.—Leased Space:~~ Review and approve institutional requests for plans to lease capital facilities space with state appropriated funds for programs of instruction, research, or service when contracts for leasing such facilities: (1) exceed \$100,000 per year; (2) commit the institution to space rentals for 10-year duration or beyond; or (3) lead to the establishment of regular state-supported daytime programs of instruction in leased space. An annual report of all space leased by the institutions, including space leased for off-campus continuing education programs and space leased in research parks, shall be compiled by the Commissioner's Office for review by the Board of Regents and forwarded to the State Building Board for possible inclusion in its comprehensive 5-year building plan.

#### ~~4.6.—The Commissioner Is Authorized to:~~

~~4.6.1.—Recommendations:~~ Propose annual recommendations for capital facilities development and improvement projects based on approved capital facilities qualification and prioritization procedures for consideration by the Board in the preparation of its recommendations to the State Building Board, Governor and Legislature.

#### ~~4.7.—Institutional Boards of Trustees Are Authorized to:~~

~~4.7.1.—Facilities Master Plans:~~ Review and approve institutional campus facilities master plans before they are forwarded to the State Board of Regents.

~~4.7.2.—Requests for Appropriated Funds:~~ Review and approve for submission to the State Board of Regents all institutional requests for funds for capital developments and capital improvements to be appropriated by the State Legislature through the State Building Board.

~~4.7.3.—Inconsistent Projects:~~ Review and approve all other institutional proposals relating to planning or construction of capital facilities, or major remodeling of existing capital facilities that require State Building Board approval and/or legislative project approval, regardless of the source of funds to be used for such activity, except to the extent that responsibility has been delegated to the institutional President as specified below in section 4.8. These actions will be reported to the State Board of Regents monthly as a part of the institutional Board of Trustees minutes, and will include planning and budget reports in the form prescribed by the Commissioner or other appropriate description and justification.

~~Proposals for inconsistent projects must be forwarded to the State Board of Regents by the institutional President, together with the institutional Board of Trustees' recommendations, for review and action by the Regents if:~~

- ~~• construction or remodeling is contrary to or will require substantial change in the approved programmatic planning or facility master plans;~~
- ~~• is inconsistent with the role assignment of the institution involved; or,~~
- ~~• is not in accord with previously approved institutional goals or objectives.~~

~~4.7.4.—Public Hearings: Conduct all required public hearings on any project, provided that adequate notice be given the State Board of Regents of any such required public hearings.~~

~~4.8.—Institutional Presidents Are Authorized to:~~

~~4.8.1.—Other Necessary Actions: Take all necessary actions relating to construction and remodeling activities that do not require State Building Board approval.~~

~~4.8.2.—Routine Repair and Maintenance: Assume the responsibility for routine repair and maintenance of existing structures or facilities (i.e., painting, roof repair, plumbing and electrical repairs, etc.). Institutions must adhere to the State Building Board facility maintenance standards.~~

~~4.8.3.—Change Orders: Assume the responsibility to approve and recommend to the DFCM any change orders on projects under construction, as long as funds are available and the change order is within the approved purpose of the project.~~

~~4.8.4.—Accept Completed Facilities: Accept completed capital facilities from the DFCM.~~

**R703-1. Purpose:** To provide guidelines and requirements for the acquisition of real property by institutions of higher education and to specify the approval process for various types of real property acquisitions.

## R703-2 References

- 2.1. Utah Code §53B-20-101 (Property Rights - Title and Control)
- 2.2. Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)
- 2.3. Regent Policy R220, Delegation of Responsibilities to the President and Board of Trustees
- 2.4. Regent Policy R315, Service Area Designations and Coordination of Off-Campus Courses and Programs

**R703-3 Regent Review of Property Acquisitions:** Except as provided by subsection 702-6, The Board of Regents shall review and consider for approval all institutional requests for real property acquisition that commit institutional funds in excess of \$100,000 or where consideration paid for options to acquire property commits institutional funds in excess of \$25,000

- 3.1. **Regent Approval Required for Property Purchased Outside of an Institution's Service Area:** The Board of Regents shall review and consider for approval, regardless of term or purchase price, all institutional requests for real property acquisition that will include instructional space located outside of the service area designated by Regent Policy R315, *Service Area Designations and Coordination of Off-Campus Courses and Programs*.

**R703-4. Required Appraisal** – For acquisitions of property by purchase or exchange, institutions shall establish the fair market value based on an appraisal completed by a State of Utah licensed appraiser with the purchase price not to exceed the appraised value unless otherwise justified.

**R703-5. Property Acquisition Guidelines** - When practicable, institutions shall use the following guidelines acquiring property, whether by purchase, exchange or to be accepted as gifts designated for ongoing institutional use, regardless of the location of the property. The Board of Regents recognizes that, based on the circumstances of specific properties, some or all of these guidelines may not apply.

- 5.1. **Proof of Clear Title** – Established by a title report or an owner's policy of title insurance if such title is deemed to be necessary.

- 5.2. **Phase I Environmental Assessment or Greater** – A Phase I or greater Environmental Assessment may be required by the Regents prior to purchase, exchange, or acceptance of a gifted property when there are questions about the possibility of environmental issues that would materially affect the use of the property.

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

**5.3. Code and Requirements Review** – Utilized to determine the suitability of a property under all applicable codes and requirements, including any applicable provisions of State law.

**5.4. Engineering Assessment** – For all improved real property valued at \$250,000 or above the institution should obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. This need may be waived if an engineering assessment has been performed within the past 12 months or if the land is unimproved. The institution may perform an engineering assessment for real property valued at less than \$250,000.

**5.5. Past Maintenance and Operational Expenses** – Where possible, past maintenance and operational expense histories should be obtained.

**5.6. Sites, Zoning, and Planning Information** – This information should be obtained where applicable or when it is determined to be needed.

**5.7. Land Survey** – An Alta/ACSM Land Title Survey should be obtained unless such a survey has been performed in the prior 12 months.

**R703-6. Delegation of Authority to Approve the Acquisition of Real Property:** The State Board of Regents delegates the authority to acquire real property in the following limited circumstances:

**6.1. Acquisitions Adjacent to Campus:** Institutional Boards of Trustees may approve the acquisition of real property adjacent to campus with institutional funds if the property purchase price does not exceed \$500,000.

**6.2. Acquisitions Non-Adjacent to Campus:** Institutional Boards of Trustees may approve the acquisition of real property that is not adjacent to campus with institutional funds if the property is consistent with the approved campus master plan, the purchase price does not exceed \$100,000, and the space does not contain instructional space located outside of the service area designated by Regent Policy R315, *Service Area Designations and Coordination of Off-Campus Courses and Programs*.

**6.3. Options to Acquire Property:** Institutional Boards of Trustees may approve an option to acquire property if the option does not exceed \$25,000 of institutional funds.

**6.4. Acquisitions with Endowment or Foundational Funds:** Institutional Boards of Trustees may approve the acquisition of real property purchased with endowment funds or funds from independent foundations regardless of cost or location.

**6.5. Gifts of Real Property:** Institutional presidents may accept gifts of real property from donors, development initiatives, and fund raising in accordance with standards and procedures approved by the Boards of Trustees. The institution may sell the gifted property, hold it for future development or investment, or use it for any other institutional purpose.

**6.6. University of Utah Health Care System:** In accordance with Regents Policy R220, *Delegation of Responsibilities to the President and Board of Trustees*, the University of Utah Board of Trustees may review and approve all property acquisitions for the University of Utah Health Care System.

**6.7. Purchase Price Below Appraised Value:** All property acquisitions approved under this section must have a supporting appraisal and the purchase price may not exceed the appraised value.



**6.8. No Request for Operation and Maintenance:** Institutions may not request operations and maintenance funding for property acquired under this section. If there is a need for operations and maintenance funds, the purchase must be approved through the Board of Regents.

**6.9. Reporting of Property Acquisitions** – Institutions shall report all property acquisitions or options approved under this section at the next regularly scheduled State Board of Regents meeting.

R703-1. Purpose: To provide guidelines and requirements for the acquisition of real property by institutions of higher education and to specify the approval process for various types of real property acquisitions.

## R703-2 References

- ~~2.1. Utah Code §53B-6-101 (Master Plan for Higher Education—Studies and Evaluations)~~
- ~~2.2. Utah Code §53B-7-101 (Combined Requests for Appropriations)~~
- ~~2.3. Utah Code §53B-20-101 (Property Rights - Title and Control)~~
- 2.4.2. Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)
- ~~2.5. Policy and Procedures R711, State Building Board Delegation of Capital Facilities Projects~~
- ~~2.6. Policy and Procedures R720, Capital Facilities Master Planning~~
- 2.3. Regent Policy R220, Delegation of Responsibilities to the President and Board of Trustees
- 2.4. Regent Policy R315, Service Area Designations and Coordination of Off-Campus Courses and Programs

## R703-3 ~~Definitions~~ Regent Review of Property Acquisitions

- ~~3.1. "Capital Facilities"—Capital Facilities are defined as fixed capital assets such as buildings and structures, real estate, utilities and distribution infrastructure, landscape features, hardscape (surface parking, plazas, sidewalks, and exterior stairs and ramps), roadways, campus lighting, and other improvements that serve and protect the general purposes of an institution.~~
- ~~3.2. "Capital Development"—Utah Code 63A-5-104(1)(a) defines a capital development as any:~~
  - ~~• remodeling, site, or utility projects with a total cost of \$2,500,000 or more;~~
  - ~~• new facility with a construction cost of \$500,000 or more; or,~~
  - ~~• purchase of real property where an appropriation is requested to fund the purchase.~~
  - ~~3.2.1. "New Facility" means the construction of any new building on state property regardless of funding source, including~~
    - ~~• an addition to an existing building; and~~
    - ~~• the enclosure of space that was not previously fully enclosed.~~
  - ~~3.2.2. "New facility" does not include:~~

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

- the replacement of state-owned space that is demolished, if the total construction cost of the replacement space is less than \$2,500,000; or
- the construction of facilities that do not fully enclose a space.

~~3.3. "Capital Improvement" Utah Code 63A-5-104(1)(b) defines a capital improvement as any:~~

- remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;
- site and utility improvement with a total cost of less than \$2,500,000; or
- new facility with a total construction cost of less than \$500,000.

~~Note: The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:~~

- (i) the capital improvement project or multiple projects require more than one year to complete; and
- (ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.

~~3.3.1. Submission of Capital Improvement Requests— Each year institutions shall submit to the Division of Facilities Construction and Management (DFCM) a prioritized list of projects for funding through the state capital improvement program. Requests for funding of Capital Improvement Projects shall be approved by institutional Boards of Trustees. Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement. Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).~~

~~3.4. "Capital Investment Plan": Integrated scheduling of capital developments and improvements over a five year planning period.~~

## ~~R710-4 Policy~~

~~4.1. Statutory Authority: Title 53B outlines the broad responsibilities of the State Board of Regents in administering the facilities, grounds, buildings and equipment at institutions under its jurisdiction. These policies and procedures are issued under that authority to clarify the roles to be assigned to the institutional Presidents, the institutional Boards of Trustees and the State Board of Regents.~~

~~4.2. Purpose: The purpose of these policies is to develop and maintain a well-planned, harmonious and safe physical environment for student achievement and personal growth on each of the institutional campuses of the State System of Higher Education in accordance with the applicable provisions of Title 53B.~~

~~4.3. Effective and Efficient Use of Resources: The Utah System of Higher Education seeks to maximize the effective and efficient use of state resources. Institutions must demonstrate that requests for construction of new capital facilities or remodeling of existing facilities meet the standards of approved academic and facilities master plans. Such justification should consider the availability of state resources and include information relating to student enrollments, space utilization, structural obsolescence, operational inefficiencies, and operating budget constraints.~~

~~4.4. — Remodeling: Remodeling of existing capital facilities for the purpose of effecting a change in functions will be undertaken only when the need for such a project is justified by and is consistent with the role assignment of the institution involved and in accord with previously approved goals and objectives set by the State Board of Regents. The term "remodeling" as used herein includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.~~

~~4.5. — The State Board of Regents Will:~~

~~4.5.1. Programmatic Planning — Require institutions to undertake comprehensive programmatic planning as part of comprehensive programmatic planning for the Utah System of Higher Education. This programmatic planning will inform the evaluation of any proposals for planning and construction of additional capital facilities.~~

~~4.5.2. Campus Facilities Master Plans — Require comprehensive campus facilities master plans to be completed and approved for each institution in correlation with programmatic planning. Each institution shall seek formal Regent approval of its campus master plan on a biennial basis.~~

~~4.5.3. Requests for Capital Development Projects That Require Utah State Building Board or Utah State Legislature Approval — Review and authorize institutional requests for capital development projects that require Building Board or Legislative approval. Such requests shall be based upon the programmatic planning and facilities master plan requirements of the institutions and shall be presented to the Regents for authorization prior to their presentation to the Building Board for approval or recommendation to the Legislature for final approval or funding. The requests to be submitted to the Regents for authorization include:~~

~~4.5.3.1. Requests for Capital Development Projects to be Funded by the Legislature — These projects are generally authorized in the annual capital development project cycle and are subject to the procedures and requirements of Policy R741, Capital Development Prioritization — GDP.~~

~~4.5.3.2. Projects Funded Entirely from Non-state Appropriated Funds — Projects in this category that require Regents' approval are described in sections 4.5.7. and 4.5.8. below.~~

~~4.5.3.3. Projects for which Legislative Revenue Bonding Authorization is Required — Requirements for seeking bonding authorization are included in section 4.2. of Policy R590, Issuance of Revenue Bonds for Facilities Construction, Facilities Acquisition, or Equipment.~~

~~4.5.3.4. Requests to use Donated or Institutional Funds for Planning and Design — Requests to the Building Board for approval to use donated or institutional funds for planning and design of proposed capital development projects require prior Regents' authorization.~~

~~4.5.4. Acquisition and Disposal of Real Property~~

~~4.5.4.1 Property Acquisitions Requiring Approval — Except as provided by 4.5.4.2 below [subsection 702-6](#), The [Boards of Regents](#) shall review and consider for approval all institutional requests for real property acquisition that commit institutional funds in excess of \$100,000 or where consideration paid for options to acquire property commits institutional funds in excess of \$25,000. ~~The following provisions and guidelines will be utilized by the Regents in authorizing the acquisition of real properties:~~~~

3.1. Regent Approval Required for Property Purchased Outside of an Institution's Service Area: The Board of Regents shall review and consider for approval, regardless of term or purchase price, all institutional requests for real property acquisition that will include instructional space located outside of the service area designated by Regent Policy R315, *Service Area Designations and Coordination of Off-Campus Courses and Programs*.

**R703-4 4.5.4.1.1. Required Appraisal** – For acquisitions of property by purchase or exchange, institutions shall establish the fair market value of property shall be established that is based on an appraisal completed by a State of Utah licensed ~~MAI~~ appraiser with the purchase price not to exceed the appraised value unless otherwise justified.

**R703-5 4.5.4.1.2. Property Acquisition Guidelines** - When practicable, institutions shall use the following guidelines ~~will be utilized to the extent reasonably practicable for when reviewing and approval of real properties to be acquired by purchase~~ acquiring property, whether by purchase, exchange or to be accepted as gifts designated for ongoing institutional use, regardless of the location of the property. The Board of Regents recognizes that, based on the ~~diverse~~ circumstances of specific properties, ~~application of some or all of~~ these guidelines ~~in every case~~ may not ~~be achievable or required~~ apply.

**4.5.4.1.2.15.1. Proof of Clear Title** – Established by a title report or an owner's policy of title insurance if such title is deemed to be necessary.

**4.5.4.1.2.25.2. Phase I Environmental Assessment or Greater** – A Phase I or greater Environmental Assessment may be required by the Regents prior to purchase, exchange, or acceptance of a gifted property when there are questions about the possibility of environmental issues that would materially affect the use of the property.

**4.5.4.1.2.35.3. Code and Requirements Review** – Utilized to determine the suitability of a property under all applicable codes and requirements, including any applicable provisions of State law.

**4.5.4.1.2.45.4. Engineering Assessment** – For all improved real property valued at \$250,000 or above the institution should obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. This need may be waived if an engineering assessment has been performed within the past 12 months or if the land is unimproved. The institution may perform an engineering assessment for real property valued at less than \$250,000.

**4.5.4.1.2.55.5. Past Maintenance and Operational Expenses** – Where possible, past maintenance and operational expense histories should be obtained.

**4.5.4.1.2.65.6. Sites, Zoning, and Planning Information** – This information should be obtained where applicable or when it is determined to be needed.

**4.5.4.1.2.75.7. Land Survey** – An Alta/ACSM Land Title Survey should be obtained unless such a survey has been performed in the prior 12 months.

**R703-6. Delegation of Authority to Approve the Acquisition of Real Property: The State Board of Regents delegates the authority to acquire real property in the following limited circumstances:**

6.1. Acquisitions Adjacent to Campus: Institutional Boards of Trustees may approve the acquisition of real property adjacent to campus with institutional funds if the property purchase price does not exceed \$500,000.

6.2. **Acquisitions Non-Adjacent to Campus:** Institutional Boards of Trustees may approve the acquisition of real property that is not adjacent to campus with institutional funds if the property is consistent with the approved campus master plan, the purchase price does not exceed \$100,000, and the space does not contain instructional space located outside of the service area designated by Regent Policy R315, *Service Area Designations and Coordination of Off-Campus Courses and Programs*.

6.3. **Options to Acquire Property:** Institutional Boards of Trustees may approve an option to acquire property if the option does not exceed \$25,000 of institutional funds.

6.4. **Acquisitions with Endowment or Foundational Funds:** Institutional Boards of Trustees may approve the acquisition of real property purchased with endowment funds or funds from independent foundations regardless of cost or location.

6.5. **Gifts of Real Property:** Institutional presidents may accept gifts of real property from donors, development initiatives, and fund raising in accordance with standards and procedures approved by the Boards of Trustees. The institution may sell the gifted property, hold it for future development or investment, or use it for any other institutional purpose.

6.6. **University of Utah Health Care System:** In accordance with Regents Policy R220, *Delegation of Responsibilities to the President and Board of Trustees*, the University of Utah Board of Trustees may review and approve all property acquisitions for the University of Utah Health Care System.

6.7. **Purchase Price Below Appraised Value:** All property acquisitions approved under this section must have a supporting appraisal and the purchase price may not exceed the appraised value.

6.8. **No Request for Operation and Maintenance:** Institutions may not request operations and maintenance funding for property acquired under this section. If there is a need for operations and maintenance funds, the purchase must be approved through the Board of Regents.

6.9. **Reporting of Property Acquisitions** – Institutions shall report all property acquisitions or options approved under this section at the next regularly scheduled State Board of Regents meeting.

~~4.5.4.2. **Property Acquisitions Adjacent to Campuses**—The State Board of Regents delegates the authority to the institutional Boards of Trustees to engage in property purchase transactions if a property purchase meets the above conditions with the following limitations:~~

~~4.5.4.2.1. — Property needs to be identified on the approved campus master plan and must be contiguous to the current campus boundary.~~

~~4.5.4.2.2. — Property purchased cannot exceed \$500,000 for properties purchased by the UU, WSU, SLCC, UVU, USU and DSU, \$400,000 for SUU and \$250,000 for Snow and USU—Eastern.~~

~~4.5.4.2.3. — All purchases must have a supporting appraisal; made by a licensed appraiser, where the purchase price cannot exceed the MAI appraised value~~

~~4.5.4.2.4. — Property purchased with endowment funds or independent foundations does not need approval from the Board of Regents, regardless of cost.~~

~~4.5.4.2.5. This delegation of purchasing authority is only available in instances where no O & M funds will be requested. If there is a need for operations and maintenance funds, the purchase needs to be approved through the normal Regent process.~~

~~4.5.4.2.6. Reporting of Property Acquisitions—Institutions engaging in a purchase of property utilizing the above authority are required to report the purchase at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.4.3. Real Property Donated to Institutions Related to Development and Fund Raising Initiatives—Acceptance of gifts of real property expected to be sold by the institution with proceeds to be assigned to designated purposes, or to be used for institutional needs not specified by the donor is delegated to the institutional presidents within institutional gift acceptance standards and procedures approved by the Boards of Trustees.~~

~~4.5.4.4. Disposal of Property—Except as provided by 4.5.4.4 below, all disposal of real property by USHE institutions is subject to approval by the Regents.~~

~~4.5.4.4.1. Determination of Surplus Property—If the real property is determined to not serve the institution's mission and is, therefore, surplus real property it is eligible for sale or exchange on the open market.~~

~~4.5.4.4.2. Fair Market Value—Unless otherwise justified, surplus real property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser.~~

~~4.5.4.5. Disposition of Donated or Gifted Property that is not Contiguous to Campuses—The State Board of Regents delegates to the institutional Boards of Trustees the authority to dispose of donated or gifted real property that is not contiguous to campus boundaries subject to the following conditions:~~

~~4.5.4.5.1. The disposal price cannot exceed \$500,000 for properties disposed of by the UU, USU, WSU, SLCC, UVU and DSU, \$400,000 for SUU; and \$250,000 for Snow and USU-Eastern.~~

~~4.5.4.5.2. The property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser unless:~~

- ~~a) the value of the property does not warrant the cost of the appraisal (e.g., low valued recreational property or seriously deteriorated properties, where sale proceeds would be seriously reduced or eliminated due to the cost of obtaining an appraisal);~~
- ~~b) the gifted property has preexisting conditions that affect the future sales price (e.g., an undivided property interest with the sale controlled by the majority holders,~~

or the property comes from a donor with a sale or price already negotiated or in process with a buyer)

**4.5.4.5.3. Reporting of Property Disposals**—Institutions engaging in disposal of property utilizing the above authority are required to report the disposal at the next regularly scheduled State Board of Regents' meeting.

**4.5.6. Approval of Projects that are inconsistent with Approved Institutional Roles, Goals and Objectives**—The Regents will review and approve, as they deem appropriate, all other institutional requests for planning and construction of facilities, or major remodeling of existing facilities, regardless of the source of funds to be used for such activity, where the proposed construction or remodeling is inconsistent with the role assignment of the institution involved, is not in accord with institutional goals and objectives previously approved by the State Board of Regents, which will require a substantial change in the approved programmatic planning or facilities master plan, or where the construction or remodeling is subject to legislative project approval. Further, all requests for operations and maintenance (O & M) funding require approval by the State Board of Regents. Delegation can occur in the following circumstances:

**4.5.7. Projects Funded from Non State Appropriated Funds**—Review and approve institutional project requests for planning and construction of facilities, or remodeling of existing facilities, for which no appropriation of state funds or authority to incur bonded indebtedness is requested, as follows:

**4.5.7.1. Funded from Student Fees, Contractual Debt, or Disposal or Exchange of Capital Assets:** Proposals for projects funded in whole or in part from an adjustment in student fees, incurring of contractual debt, or the disposal or exchange of land or other capital assets shall be approved by the institutional Board of Trustees prior to submission to the Board of Regents.

**4.5.7.2. Funded from Private Sources:** Major construction or remodeling projects (defined as projects costing more than \$1,000,000) funded through private sources or a combination of private sources and other non state funds shall be approved by the institutional Board of Trustees. Upon trustee approval, the institutional President shall submit the project to the Commissioner for inclusion as an action item on an upcoming Board of Regents agenda.

**4.5.8. Operating and Maintenance (O & M) Costs on Non State Funded Projects:** (a) An acquisition, construction or remodeling project funded from private sources, or from a combination of private sources and other non state appropriated funds will be eligible for state appropriated O & M when the use of the building is primarily for approved academic and training purposes and associated support and is consistent with the programmatic planning and facilities master plan requirements of the institutions. Examples of such space include classrooms, class/labs, faculty and education and general administrative offices and related space, library and study space, open labs, education and general conference rooms, physical education space, and academic and approved training support space, i.e., admissions, records, counseling, student aid administration, campus security, computer center and telecommunication space, etc.. If an academic facility, funded in whole or in part by non state funds, is built to a scale larger than Board approved programmatic or facilities planning requirements, the excess space may not qualify for state appropriated O & M funding. The Board will consider the eligibility of the institution to receive state O & M funding for such excess space on a case by case basis.



~~(b) In most cases, if the acquisition, construction or remodeling project is not primarily for approved academic and training purposes or associated support, it will not be eligible for state appropriated O & M funding. Examples of such space might include research space not generating student credits or the equivalent thereto, football stadia, softball, baseball, soccer fields, basketball arenas, self support auxiliary space, i.e., college bookstores, food service, student housing, recreational services, student organizations, private vendors and student health services spaces, etc.~~

~~(c) The Board, on a case by case basis, may determine that an acquisition, construction or remodeling project to be used primarily for purposes other than approved academic and training purposes and associated support should be eligible for state appropriated O & M funds in whole or in part. Each request for such Board consideration must be accompanied by a detailed statement showing how space types included in the facility will relate to important institutional activities such as instruction, research generating student credits, and service within the institution's role statement. Examples of such space might include museums, theaters, community outreach and research spaces administered by academic units that generate academic student credits or the equivalent thereto, etc.~~

~~**4.5.8.1. O & M Funding Sources for Projects Not Eligible for State Appropriated O & M:** In those cases where property acquisitions, construction, or remodeling projects are not eligible for state appropriated O & M funding, the institutional proposal must include arrangements as to how O & M as defined by the State Building Board will be covered. Institutions are to pursue O & M funding in the following sequence for such ineligible non-state funded facilities: first, separate non-state funding assured through private contracts or an O & M endowment established by a private donor; and second, an institutional O & M funding plan with additional revenue to support the new space to be credited to its O & M accounts.~~

~~**4.5.8.2. Board Approval of O & M Funding Plan:** The institutional O & M funding plan must be consistent with the provisions of 4.5.6 and 4.5.6.1 to receive Regents' acquisition, construction or remodeling project approval. Increased consideration for state appropriated O & M will be given to projects previously listed in the Utah State Building Board Five Year Building Program. Board approval of the acquisition of the facility shall include approval of a plan to fund the O & M costs, including the source of the funds and the projected amount needed. Further approval of such proposals, when legally required by the State Building Board and the Legislature, will follow their respective established procedures.~~

~~**4.5.9. Leased Space:** Review and approve institutional requests for plans to lease capital facilities space with state appropriated funds for programs of instruction, research, or service when contracts for leasing such facilities: (1) exceed \$100,000 per year; (2) commit the institution to space rentals for 10 year duration or beyond; or (3) lead to the establishment of regular state-supported daytime programs of instruction in leased space. An annual report of all space leased by the institutions, including space leased for off-campus continuing education programs and space leased in research parks, shall be compiled by the Commissioner's Office for review by the Board of Regents and forwarded to the State Building Board for possible inclusion its comprehensive 5-year building plan.~~

~~**4.6. The Commissioner Is Authorized to:**~~

~~4.6.1.—Recommendations: Propose annual recommendations for capital facilities development and improvement projects based on approved capital facilities qualification and prioritization procedures for consideration by the Board in the preparation of its recommendations to the State Building Board, Governor and Legislature.~~

~~4.7.—Institutional Boards of Trustees Are Authorized to:~~

~~4.7.1.—Facilities Master Plans: Review and approve institutional campus facilities master plans before they are forwarded to the State Board of Regents.~~

~~4.7.2.—Requests for Appropriated Funds: Review and approve for submission to the State Board of Regents all institutional requests for funds for capital developments and capital improvements to be appropriated by the State Legislature through the State Building Board.~~

~~4.7.3.—Inconsistent Projects: Review and approve all other institutional proposals relating to planning or construction of capital facilities, or major remodeling of existing capital facilities that require State Building Board approval and/or legislative project approval, regardless of the source of funds to be used for such activity, except to the extent that responsibility has been delegated to the institutional President as specified below in section 4.8. These actions will be reported to the State Board of Regents monthly as a part of the institutional Board of Trustees minutes, and will include planning and budget reports in the form prescribed by the Commissioner or other appropriate description and justification.~~

~~Proposals for inconsistent projects must be forwarded to the State Board of Regents by the institutional President, together with the institutional Board of Trustees' recommendations, for review and action by the Regents if:~~

- ~~• construction or remodeling is contrary to or will require substantial change in the approved programmatic planning or facility master plans;~~
- ~~• is inconsistent with the role assignment of the institution involved; or,~~
- ~~• is not in accord with previously approved institutional goals or objectives.~~

~~4.7.4.—Public Hearings: Conduct all required public hearings on any project, provided that adequate notice be given the State Board of Regents of any such required public hearings.~~

~~4.8.—Institutional Presidents Are Authorized to:~~

~~4.8.1.—Other Necessary Actions: Take all necessary actions relating to construction and remodeling activities that do not require State Building Board approval.~~

~~4.8.2.—Routine Repair and Maintenance: Assume the responsibility for routine repair and maintenance of existing structures or facilities (i.e., painting, roof repair, plumbing and electrical repairs, etc.). Institutions must adhere to the State Building Board facility maintenance standards.~~

~~4.8.3.—Change Orders: Assume the responsibility to approve and recommend to the DFCM any change orders on projects under construction, as long as funds are available and the change order is within the approved purpose of the project.~~

~~4.8.4.—Accept Completed Facilities: Accept completed capital facilities from the DFCM.~~

**R704-1 Purpose:** To provide guidelines and requirements for institutions to dispose of real property and to establish the approval process.

## R710-2 References

- 2.1. Utah Code §53B-20-101 (Property Rights - Title and Control)
- 2.2. Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)
- 2.3. Policy and Procedures R220, Delegation of Responsibilities to the President and Board of Trustees

**R704-3 Disposal of Property:** Except as provided by subsections 703-6 and 703-7, institutions shall request and obtain Regents approval prior to disposing of real property.

**R704-4. Determination of Surplus Property:** If the institution determines the real property does not serve its mission and is, therefore, surplus property, the property is eligible for sale or exchange on the open market.

**R704-5. Fair Market Value:** Unless otherwise justified, surplus real property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed appraiser.

**R704-6. Delegation of Authority to Approve the Disposal of Donated or Gifted Real Property:** The State Board of Regents delegates to the Boards of Trustees the authority to dispose of donated or gifted real property that is not contiguous to campus boundaries subject to the following conditions:

- 6.1. The disposal price cannot exceed \$500,000.
- 6.2. The property shall be sold at or above fair market value as determined by an appraisal unless the value of the property does not warrant the cost of the or the gifted property has preexisting conditions that affect the future sales price.
- 6.3. **Reporting of Property Disposals** – When an institution disposes of property under this policy, it shall report the transaction at the next regularly scheduled State Board of Regents' meeting.

**R704-7. Delegation of Authority to Approve the Disposal of Minor Property Transactions:** The State Board of Regents delegates to the institutional Boards of Trustees the authority to approve the disposal of minor property transactions such as boundary adjustments, easements, and rights-of-way not exceeding \$50,000.

**R704-8. Delegation of Authority to the University of Utah Board of Trustees for University Health Care System Property Transactions:** In accordance with Regents Policy R220, *Delegation of Responsibilities to the President and Board of Trustees*, the University of Utah Board of Trustees may review and approve all property disposals and transactions for the University of Utah Health Care System.

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

**R704-1 Purpose:** ~~To clarify the role of the State Board of Regents, that of the institutional Boards of Trustees and of the institutional Presidents with respect to capital facilities.~~ To provide guidelines and requirements for institutions to dispose of real property and to establish the approval process.

## R710-2 References

- ~~2.1. Utah Code §53B-6-101 (Master Plan for Higher Education – Studies and Evaluations)~~
- ~~2.2. Utah Code §53B-7-101 (Combined Requests for Appropriations)~~
- ~~2.3. Utah Code §53B-20-101 (Property Rights - Title and Control)~~
- ~~2.4. Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)~~
- ~~2.5. Policy and Procedures R711, State Building Board Delegation of Capital Facilities Projects~~
- ~~2.6. Policy and Procedures R720, Capital Facilities Master Planning~~
- 2.3. Regents Policy R220, Delegation of Responsibilities to the President and Board of Trustees

## R710-3 Definitions

- ~~3.1. "Capital Facilities" – Capital Facilities are defined as fixed capital assets such as buildings and structures, real estate, utilities and distribution infrastructure, landscape features, hardscape (surface parking, plazas, sidewalks, and exterior stairs and ramps), roadways, campus lighting, and other improvements that serve and protect the general purposes of an institution.~~
- ~~3.2. "Capital Development" – Utah Code 63A-5-104(1)(a) defines a capital development as any:
  - ~~• remodeling, site, or utility projects with a total cost of \$2,500,000 or more;~~
  - ~~• new facility with a construction cost of \$500,000 or more; or,~~
  - ~~• purchase of real property where an appropriation is requested to fund the purchase.~~~~
  - ~~3.2.1. "New Facility" means the construction of any new building on state property regardless of funding source, including
    - ~~• an addition to an existing building; and~~
    - ~~• the enclosure of space that was not previously fully enclosed.~~~~
  - ~~3.2.2. "New facility" does not include:~~

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

- the replacement of state-owned space that is demolished, if the total construction cost of the replacement space is less than \$2,500,000; or
- the construction of facilities that do not fully enclose a space.

3.3. ~~"Capital Improvement"~~ Utah Code 63A-5-104(1)(b) defines a capital improvement as any:

- remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;
- site and utility improvement with a total cost of less than \$2,500,000; or
- new facility with a total construction cost of less than \$500,000.

Note: The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:

- (i) the capital improvement project or multiple projects require more than one year to complete; and
- (ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.

~~3.3.1. **Submission of Capital Improvement Requests**—~~ Each year institutions shall submit to the Division of Facilities Construction and Management (DFCM) a prioritized list of projects for funding through the state capital improvement program. Requests for funding of Capital Improvement Projects shall be approved by institutional Boards of Trustees. Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement. Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).

3.4. ~~"Capital Investment Plan"~~: Integrated scheduling of capital developments and improvements over a five-year planning period.

## ~~R710-4 Policy~~

4.1. ~~**Statutory Authority:**~~ Title 53B outlines the broad responsibilities of the State Board of Regents in administering the facilities, grounds, buildings and equipment at institutions under its jurisdiction. These policies and procedures are issued under that authority to clarify the roles to be assigned to the institutional Presidents, the institutional Boards of Trustees and the State Board of Regents.

4.2. ~~**Purpose:**~~ The purpose of these policies is to develop and maintain a well-planned, harmonious and safe physical environment for student achievement and personal growth on each of the institutional campuses of the State System of Higher Education in accordance with the applicable provisions of Title 53B.

4.3. ~~**Effective and Efficient Use of Resources:**~~ The Utah System of Higher Education seeks to maximize the effective and efficient use of state resources. Institutions must demonstrate that requests for construction of new capital facilities or remodeling of existing facilities meet the standards of approved academic and facilities master plans. Such justification should consider the availability of state resources and include information relating to student enrollments, space utilization, structural obsolescence, operational inefficiencies, and operating budget constraints.

~~4.4. — Remodeling: Remodeling of existing capital facilities for the purpose of effecting a change in functions will be undertaken only when the need for such a project is justified by and is consistent with the role assignment of the institution involved and in accord with previously approved goals and objectives set by the State Board of Regents. The term "remodeling" as used herein includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.~~

~~4.5. — The State Board of Regents Will:~~

~~4.5.1. Programmatic Planning—Require institutions to undertake comprehensive programmatic planning as part of comprehensive programmatic planning for the Utah System of Higher Education. This programmatic planning will inform the evaluation of any proposals for planning and construction of additional capital facilities.~~

~~4.5.2. Campus Facilities Master Plans—Require comprehensive campus facilities master plans to be completed and approved for each institution in correlation with programmatic planning. Each institution shall seek formal Regent approval of its campus master plan on a biennial basis.~~

~~4.5.3. Requests for Capital Development Projects That Require Utah State Building Board or Utah State Legislature Approval—Review and authorize institutional requests for capital development projects that require Building Board or Legislative approval. Such requests shall be based upon the programmatic planning and facilities master plan requirements of the institutions and shall be presented to the Regents for authorization prior to their presentation to the Building Board for approval or recommendation to the Legislature for final approval or funding. The requests to be submitted to the Regents for authorization include:~~

~~4.5.3.1. Requests for Capital Development Projects to be Funded by the Legislature—These projects are generally authorized in the annual capital development project cycle and are subject to the procedures and requirements of Policy R741, Capital Development Prioritization—GDP.~~

~~4.5.3.2. Projects Funded Entirely from Non-state Appropriated Funds—Projects in this category that require Regents' approval are described in sections 4.5.7. and 4.5.8. below.~~

~~4.5.3.3. Projects for which Legislative Revenue Bonding Authorization is Required—Requirements for seeking bonding authorization are included in section 4.2. of Policy R590, Issuance of Revenue Bonds for Facilities Construction, Facilities Acquisition, or Equipment.~~

~~4.5.3.4. Requests to use Donated or Institutional Funds for Planning and Design—Requests to the Building Board for approval to use donated or institutional funds for planning and design of proposed capital development projects require prior Regents' authorization.~~

~~4.5.4. Acquisition and Disposal of Real Property~~

~~4.5.4.1 Property Acquisitions Requiring Approval—Except as provided by 4.5.4.2 below, The Regents shall review and consider for approval all institutional requests for real property acquisition that commit institutional funds in excess of \$100,000 or where consideration paid for options to acquire property commits institutional funds in excess of~~

~~\$25,000. The following provisions and guidelines will be utilized by the Regents in authorizing the acquisition of real properties:~~

~~**4.5.4.1.1. Required Appraisal**—For acquisitions of property by purchase or exchange a fair market value of property shall be established that is based on an appraisal completed by a State of Utah licensed MAI appraiser with the purchase price not to exceed the appraised value unless otherwise justified.~~

~~**4.5.4.1.2. Guidelines**—The following guidelines will be utilized to the extent reasonably practicable for review and approval of real properties to be acquired by purchase, exchange or to be accepted as gifts designated for ongoing institutional use, regardless of the location of the property. The Board of Regents recognizes that, based on the diverse circumstances of specific properties, application of all these guidelines in every case may not be achievable or required.~~

~~**4.5.4.1.2.1. Proof of Clear Title**—Established by a title report or an owner's policy of title insurance if such title is deemed to be necessary.~~

~~**4.5.4.1.2.2. Phase I Environmental Assessment or Greater**—A Phase I or greater Environmental Assessment may be required by the Regents prior to purchase, exchange, or acceptance of a gifted property when there are questions about the possibility of environmental issues that would materially affect the use of the property.~~

~~**4.5.4.1.2.3. Code and Requirements Review**—Utilized to determine the suitability of a property under all applicable codes and requirements, including any applicable provisions of State law.~~

~~**4.5.4.1.2.4. Engineering Assessment**—For all improved real property valued at \$250,000 or above the institution should obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. This need may be waived if an engineering assessment has been performed within the past 12 months or if the land is unimproved. The institution may perform an engineering assessment for real property valued at less than \$250,000.~~

~~**4.5.4.1.2.5. Past Maintenance and Operational Expenses**—Where possible, past maintenance and operational expense histories should be obtained.~~

~~**4.5.4.1.2.6. Sites, Zoning, and Planning Information**—This information should be obtained where applicable or when it is determined to be needed.~~

~~**4.5.4.1.2.7. Land Survey**—An Alta/ACSM Land Title Survey should be obtained unless such a survey has been performed in the prior 12 months.~~

~~**4.5.4.2. Property Acquisitions Adjacent to Campuses**—The State Board of Regents delegates the authority to the institutional Boards of Trustees to engage in property~~

purchase transactions if a property purchase meets the above conditions with the following limitations:

~~4.5.4.2.1. Property needs to be identified on the approved campus master plan and must be contiguous to the current campus boundary.~~

~~4.5.4.2.2. Property purchased cannot exceed \$500,000 for properties purchased by the UU, WSU, SLCC, UVU, USU and DSU, \$400,000 for SUU and \$250,000 for Snow and USU Eastern.~~

~~4.5.4.2.3. All purchases must have a supporting appraisal; made by a licensed appraiser, where the purchase price cannot exceed the MAI appraised value~~

~~4.5.4.2.4. Property purchased with endowment funds or independent foundations does not need approval from the Board of Regents, regardless of cost.~~

~~4.5.4.2.5. This delegation of purchasing authority is only available in instances where no O & M funds will be requested. If there is a need for operations and maintenance funds, the purchase needs to be approved through the normal Regent process.~~

~~4.5.4.2.6. Reporting of Property Acquisitions — Institutions engaging in a purchase of property utilizing the above authority are required to report the purchase at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.4.3. Real Property Donated to Institutions Related to Development and Fund Raising Initiatives — Acceptance of gifts of real property expected to be sold by the institution with proceeds to be assigned to designated purposes, or to be used for institutional needs not specified by the donor is delegated to the institutional presidents within institutional gift acceptance standards and procedures approved by the Boards of Trustees.~~

**4.5.4.4. Disposal of Property:** Except as provided by ~~4.5.4.4 below~~ [subsections 703-6 and 703-7](#), [institutions shall request and obtain Regents approval prior to disposing of](#) ~~all disposal of~~ real property by USHE institutions is subject to approval by the Regents.

**4.5.4.4.1**~~R704-4. Determination of Surplus Property~~ – If [the institution determines](#) the real property ~~is determined to~~ [does](#) not serve the institution's mission and is, therefore, surplus real property, the [property is](#) eligible for sale or exchange on the open market.

**4.5.4.4.2**~~R704-5. Fair Market Value~~ – Unless otherwise justified, surplus real property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed ~~MAI~~ appraiser.

**4.5.4.5**~~R704-6. Disposition of Donated or Gifted Property that is not Contiguous to Campuses~~ [Delegation of Authority to Approve the Disposal of Donated or Gifted Real Property:](#) The ~~State~~ Board of Regents delegates to the ~~institutional~~ Boards of Trustees the authority to dispose of donated or gifted real property that is not contiguous to campus boundaries subject to the following conditions:



~~4.5.4.5.16.1.~~ The disposal price cannot exceed \$500,000 ~~for properties disposed of by the UU, USU, WSU, SLCC, UVU and DSU, \$400,000 for SUU, and \$250,000 for Snow and USU-Eastern.~~

~~4.5.4.5.26.2.~~ The property shall be sold at or above fair market value as determined by an appraisal ~~completed by a State of Utah licensed MAI appraiser unless:~~ a) the value of the property does not warrant the cost of the appraisal (e.g., low-valued recreational property or seriously deteriorated properties, where sale proceeds would be seriously reduced or eliminated due to the cost of obtaining an appraisal); b) or the gifted property has preexisting conditions that affect the future sales price (e.g., an undivided property interest with the sale controlled by the majority holders, or the property comes from a donor with a sale or price already negotiated or in process with a buyer).

~~4.5.4.5.36.3.~~ Reporting of Property Disposals – When an Institution engaging in disposal disposes of property utilizing the above authority are required to, it shall report the disposal transaction at the next regularly scheduled State Board of Regents' meeting.

~~4.5.6. Approval of Projects that are Inconsistent with Approved Institutional Roles, Goals and Objectives—~~The Regents will review and approve, as they deem appropriate, all other institutional requests for planning and construction of facilities, or major remodeling of existing facilities, regardless of the source of funds to be used for such activity, where the proposed construction or remodeling is inconsistent with the role assignment of the institution involved, is not in accord with institutional goals and objectives previously approved by the State Board of Regents, which will require a substantial change in the approved programmatic planning or facilities master plan, or where the construction or remodeling is subject to legislative project approval. Further, all requests for operations and maintenance (O & M) funding require approval by the State Board of Regents. Delegation can occur in the following circumstances:

~~4.5.7. Projects Funded from Non-State Appropriated Funds—~~Review and approve institutional project requests for planning and construction of facilities, or remodeling of existing facilities, for which no appropriation of state funds or authority to incur bonded indebtedness is requested, as follows:

~~4.5.7.1.—Funded from Student Fees, Contractual Debt, or Disposal or Exchange of Capital Assets:~~ Proposals for projects funded in whole or in part from an adjustment in student fees, incurring of contractual debt, or the disposal or exchange of land or other capital assets shall be approved by the institutional Board of Trustees prior to submission to the Board of Regents.

~~4.5.7.2.—Funded from Private Sources:~~ Major construction or remodeling projects (defined as projects costing more than \$1,000,000) funded through private sources or a combination of private sources and other non-state funds shall be approved by the institutional Board of Trustees. Upon trustee approval, the institutional President shall submit the project to the Commissioner for inclusion as an action item on an upcoming Board of Regents agenda.

~~4.5.8.—Operating and Maintenance (O & M) Costs on Non-State Funded Projects:~~ (a) An acquisition, construction or remodeling project funded from private sources, or from a combination of private sources and other non-state appropriated funds will be eligible for state appropriated O & M when the use of the building is primarily for approved academic and training purposes and associated support and is consistent with the programmatic planning and facilities master plan

requirements of the institutions. Examples of such space include classrooms, class/labs, faculty and education and general administrative offices and related space, library and study space, open labs, education and general conference rooms, physical education space, and academic and approved training support space, i.e., admissions, records, counseling, student aid administration, campus security, computer center and telecommunication space, etc.. If an academic facility, funded in whole or in part by non-state funds, is built to a scale larger than Board-approved programmatic or facilities planning requirements, the excess space may not qualify for state appropriated O & M funding. The Board will consider the eligibility of the institution to receive state O & M funding for such excess space on a case-by-case basis.

(b) In most cases, if the acquisition, construction or remodeling project is not primarily for approved academic and training purposes or associated support, it will not be eligible for state appropriated O & M funding. Examples of such space might include research space not generating student credits or the equivalent thereto, football stadia, softball, baseball, soccer fields, basketball arenas, self-support auxiliary space, i.e., college bookstores, food service, student housing, recreational services, student organizations, private vendors and student health services spaces, etc.

(c) The Board, on a case-by-case basis, may determine that an acquisition, construction or remodeling project to be used primarily for purposes other than approved academic and training purposes and associated support should be eligible for state appropriated O & M funds in whole or in part. Each request for such Board consideration must be accompanied by a detailed statement showing how space types included in the facility will relate to important institutional activities such as instruction, research-generating student credits, and service within the institution's role statement. Examples of such space might include museums, theaters, community outreach and research spaces administered by academic units that generate academic student credits or the equivalent thereto, etc.

**4.5.8.1. O & M Funding Sources for Projects Not Eligible for State Appropriated O & M:** In those cases where property acquisitions, construction, or remodeling projects are not eligible for state appropriated O & M funding, the institutional proposal must include arrangements as to how O & M as defined by the State Building Board will be covered. Institutions are to pursue O & M funding in the following sequence for such ineligible non-state funded facilities: first, separate non-state funding assured through private contracts or an O & M endowment established by a private donor; and second, an institutional O & M funding plan with additional revenue to support the new space to be credited to its O & M accounts.

**4.5.8.2. Board Approval of O & M Funding Plan:** The institutional O & M funding plan must be consistent with the provisions of 4.5.6 and 4.5.6.1 to receive Regents' acquisition, construction or remodeling project approval. Increased consideration for state appropriated O & M will be given to projects previously listed in the Utah State Building Board Five Year Building Program. Board approval of the acquisition of the facility shall include approval of a plan to fund the O & M costs, including the source of the funds and the projected amount needed. Further approval of such proposals, when legally required by the State Building Board and the Legislature, will follow their respective established procedures.

**4.5.9. Leased Space:** Review and approve institutional requests for plans to lease capital facilities space with state appropriated funds for programs of instruction, research, or service when contracts for leasing such facilities: (1) exceed \$100,000 per year; (2) commit the institution to

~~space rentals for 10-year duration or beyond; or (3) lead to the establishment of regular state-supported daytime programs of instruction in leased space. An annual report of all space leased by the institutions, including space leased for off-campus continuing education programs and space leased in research parks, shall be compiled by the Commissioner's Office for review by the Board of Regents and forwarded to the State Building Board for possible inclusion in its comprehensive 5-year building plan.~~

~~4.6. — The Commissioner Is Authorized to:~~

~~4.6.1. — Recommendations: Propose annual recommendations for capital facilities development and improvement projects based on approved capital facilities qualification and prioritization procedures for consideration by the Board in the preparation of its recommendations to the State Building Board, Governor and Legislature.~~

~~4.7. — Institutional Boards of Trustees Are Authorized to:~~

~~4.7.1. — Facilities Master Plans: Review and approve institutional campus facilities master plans before they are forwarded to the State Board of Regents.~~

~~4.7.2. — Requests for Appropriated Funds: Review and approve for submission to the State Board of Regents all institutional requests for funds for capital developments and capital improvements to be appropriated by the State Legislature through the State Building Board.~~

~~4.7.3. — Inconsistent Projects: Review and approve all other institutional proposals relating to planning or construction of capital facilities, or major remodeling of existing capital facilities that require State Building Board approval and/or legislative project approval, regardless of the source of funds to be used for such activity, except to the extent that responsibility has been delegated to the institutional President as specified below in section 4.8. These actions will be reported to the State Board of Regents monthly as a part of the institutional Board of Trustees minutes, and will include planning and budget reports in the form prescribed by the Commissioner or other appropriate description and justification.~~

~~Proposals for inconsistent projects must be forwarded to the State Board of Regents by the institutional President, together with the institutional Board of Trustees' recommendations, for review and action by the Regents if:~~

- ~~• construction or remodeling is contrary to or will require substantial change in the approved programmatic planning or facility master plans;~~
- ~~• is inconsistent with the role assignment of the institution involved; or,~~
- ~~• is not in accord with previously approved institutional goals or objectives.~~

~~4.7.4. — Public Hearings: Conduct all required public hearings on any project, provided that adequate notice be given the State Board of Regents of any such required public hearings.~~

~~4.8. — Institutional Presidents Are Authorized to:~~

~~4.8.1. — Other Necessary Actions: Take all necessary actions relating to construction and remodeling activities that do not require State Building Board approval.~~

~~4.8.2.— Routine Repair and Maintenance: Assume the responsibility for routine repair and maintenance of existing structures or facilities (i.e., painting, roof repair, plumbing and electrical repairs, etc.). Institutions must adhere to the State Building Board facility maintenance standards.~~

~~4.8.3.— Change Orders: Assume the responsibility to approve and recommend to the DFCM any change orders on projects under construction, as long as funds are available and the change order is within the approved purpose of the project.~~

~~4.8.4.— Accept Completed Facilities: Accept completed capital facilities from the DFCM.~~

R704-7. Delegation of Authority to Approve the Disposal of Minor Property Transactions: The State Board of Regents delegates to the institutional Boards of Trustees the authority to approve the disposal of minor property transactions such as boundary adjustments, easements, and rights-of-way not exceeding \$50,000.

R704-8. Delegation of Authority to the University of Utah Board of Trustees for University Health Care System Property Transactions: In accordance with Regents Policy R220, *Delegation of Responsibilities to the President and Board of Trustees*, the University of Utah Board of Trustees may review and approve all property disposals and transactions for the University of Utah Health Care System.

**R705-1 Purpose:** To comply with statute requiring the Board of Regents to establish written policies governing leasing for higher education institutions and to provide procedures for the approval of new leased space and for the annual reporting of leased space to the Board of Regents.

## R705-2 References

- 2.1. Utah Code §53B-20-101 (Property Rights - Title and Control)
- 2.2. Utah Code §63A-5-305 (Leasing by Higher Education Institutions)
- 2.4. Policy and Procedures R220, Delegation of Responsibilities to the President and Board of Trustees
- 2.5. Policy and Procedures R315, Service Area Designations and Coordination of Off-Campus Courses and Programs
- 2.6. Policy and Procedures R587, Contract or Lease-Purchase Financing
- 2.7. Policy and Procedures R712, Nontraditional Arrangements for Development of Facilities on Campuses

**R705-3 Board Approval of Certain Leases:** The Board of Regents shall review significant lease terms and institutional requests to renew or enter into new leases of capital facilities space for programs of instruction, research, or service when contracts for leasing such facilities:

- 3.1. exceed \$250,000 per year regardless of funding source for the state research institutions (the University of Utah and Utah State University) or exceed \$100,000 per year regardless of the funding source for all other USHE institutions;
- 3.2. commit the institution to space rentals for 10-years duration;
- 3.3. lead to the establishment of regular state-supported daytime programs of instruction in leased space; or
- 3.4. will include instructional space located outside of the service area designated by Regent Policy R315, *Service Area Designations and Coordination of Off-Campus Courses and Programs*.

**R705-4. Leasing State-Owned Property to Outside Entities:** The Board of Regents shall review and approve institutional requests to lease state-owned institutional property to non-institutional entities if the lease will exceed \$250,000 or extend for more than 10 years for a state research institution (the University of Utah and Utah State

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

University) or exceed \$100,000 per year or extend for more than 10 years for all other non-research USHE institutions.

4.1. Approval of nontraditional arrangements for the use of institutional-owned facilities is subject to the provisions of Regent Policy R712, *Nontraditional Arrangements for Development of Facilities on Campuses*.

**R705-5. Delegation of Authority to Boards of Trustees:** The Board of Regents delegates authority to the institutional Board of Trustees to approve:

5.1 leases under \$250,000 of state-appropriated funds and less than 10-years in duration for a state research institution (the University of Utah and Utah State University);

5.2 leases under \$100,000 of state-appropriated funds and less than 10-years in duration for all other non-research USHE institutions.

**R705-6. Delegation of Authority to the University of Utah Board of Trustees for University Health Care System Leases:** In accordance with Regents Policy R220, *Delegation of Responsibilities to the President and Board of Trustees*, the University of Utah Board of Trustees may review and approve all property leases for the University of Utah Health Care System.

**R705-7. Annual Report to the Board of Regents:** The Commissioner shall report annually to the Board of Regents all space leased by the institutions in the System of Higher Education, including space leased for off-campus continuing education programs and space leased in research parks.

6.1. **Institution Lease Information:** In accordance with procedures and forms developed by the Commissioner's Office, institutions shall annually submit information for all space leased by the institution.

6.2. **Submission to the State Building Board:** After review by the Board of Regents, the Commissioner shall forward the report to the State Building Board for possible inclusion its comprehensive 5-year building plan.

**R705-1 Purpose:** ~~To clarify the role of the State Board of Regents, that of the institutional Boards of Trustees and of the institutional Presidents with respect to capital facilities~~ To comply with statute requiring the Board of Regents to establish written policies governing leasing for higher education institutions and to provide procedures for the approval of new leased space and for the annual reporting of leased space to the Board of Regents.

## R705-2 References

- ~~2.1. Utah Code §53B-6-101 (Master Plan for Higher Education—Studies and Evaluations)~~
- ~~2.2. Utah Code §53B-7-101 (Combined Requests for Appropriations)~~
- ~~2.3. Utah Code §53B-20-101 (Property Rights - Title and Control)~~
- ~~2.42. Utah Code Title 63A, Chapter 5 (State Building Board—Division of Facilities Construction and Management)~~ Utah Code §63A-5-305 (Leasing by Higher Education Institutions)
- ~~2.5. Policy and Procedures R711, State Building Board Delegation of Capital Facilities Projects~~
- ~~2.6. Policy and Procedures R720, Capital Facilities Master Planning~~
- 2.4. Policy and Procedures R220, Delegation of Responsibilities to the President and Board of Trustees
- 2.5. Policy and Procedures R315, Service Area Designations and Coordination of Off-Campus Courses and Programs
- 2.6. Policy and Procedures R587, Contract or Lease-Purchase Financing
- 2.7. Policy and Procedures R712, Nontraditional Arrangements for Development of Facilities on Campuses

## ~~R705-3 Definitions~~

- ~~3.1. "Capital Facilities"—Capital Facilities are defined as fixed capital assets such as buildings and structures, real estate, utilities and distribution infrastructure, landscape features, hardscape (surface parking, plazas, sidewalks, and exterior stairs and ramps), roadways, campus lighting, and other improvements that serve and protect the general purposes of an institution.~~
- ~~3.2. "Capital Development"—Utah Code 63A-5-104(1)(a) defines a capital development as any:~~
  - ~~• remodeling, site, or utility projects with a total cost of \$2,500,000 or more;~~
  - ~~• new facility with a construction cost of \$500,000 or more; or,~~
  - ~~• purchase of real property where an appropriation is requested to fund the purchase.~~

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<sup>1</sup> Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014 and May 15, 2015.

~~3.2.1. — "New Facility" means the construction of any new building on state property regardless of funding source, including~~

- ~~• an addition to an existing building; and~~
- ~~• the enclosure of space that was not previously fully enclosed.~~

~~3.2.2. — "New facility" does not include:~~

- ~~• the replacement of state-owned space that is demolished, if the total construction cost of the replacement space is less than \$2,500,000; or~~
- ~~• the construction of facilities that do not fully enclose a space.~~

~~3.3. — "Capital Improvement" — Utah Code 63A-5-104(1)(b) defines a capital improvement as any:~~

- ~~• remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;~~
- ~~• site and utility improvement with a total cost of less than \$2,500,000; or~~
- ~~• new facility with a total construction cost of less than \$500,000.~~

~~Note: The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:~~

- ~~(i) the capital improvement project or multiple projects require more than one year to complete; and~~
- ~~(ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.~~

~~3.3.1. — Submission of Capital Improvement Requests — Each year institutions shall submit to the Division of Facilities Construction and Management (DFCM) a prioritized list of projects for funding through the state capital improvement program. Requests for funding of Capital Improvement Projects shall be approved by institutional Boards of Trustees. Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement. Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).~~

~~3.4. — "Capital Investment Plan": Integrated scheduling of capital developments and improvements over a five-year planning period.~~

### **R71005-3**      **Policy Board Approval of Certain Leases**

~~4.1. — Statutory Authority: Title 53B outlines the broad responsibilities of the State Board of Regents in administering the facilities, grounds, buildings and equipment at institutions under its jurisdiction. These policies and procedures are issued under that authority to clarify the roles to be assigned to the institutional Presidents, the institutional Boards of Trustees and the State Board of Regents.~~

~~4.2. — Purpose: The purpose of these policies is to develop and maintain a well-planned, harmonious and safe physical environment for student achievement and personal growth on each of the institutional~~



campuses of the State System of Higher Education in accordance with the applicable provisions of Title 53B.

**4.3. — Effective and Efficient Use of Resources:** The Utah System of Higher Education seeks to maximize the effective and efficient use of state resources. Institutions must demonstrate that requests for construction of new capital facilities or remodeling of existing facilities meet the standards of approved academic and facilities master plans. Such justification should consider the availability of state resources and include information relating to student enrollments, space utilization, structural obsolescence, operational inefficiencies, and operating budget constraints.

**4.4. — Remodeling:** Remodeling of existing capital facilities for the purpose of effecting a change in functions will be undertaken only when the need for such a project is justified by and is consistent with the role assignment of the institution involved and in accord with previously approved goals and objectives set by the State Board of Regents. The term "remodeling" as used herein includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.

**4.5. — The State Board of Regents Will:**

**4.5.1. Programmatic Planning**—Require institutions to undertake comprehensive programmatic planning as part of comprehensive programmatic planning for the Utah System of Higher Education. This programmatic planning will inform the evaluation of any proposals for planning and construction of additional capital facilities.

**4.5.2. Campus Facilities Master Plans**—Require comprehensive campus facilities master plans to be completed and approved for each institution in correlation with programmatic planning. Each institution shall seek formal Regent approval of its campus master plan on a biennial basis.

**4.5.3. Requests for Capital Development Projects That Require Utah State Building Board or Utah State Legislature Approval**—Review and authorize institutional requests for capital development projects that require Building Board or Legislative approval. Such requests shall be based upon the programmatic planning and facilities master plan requirements of the institutions and shall be presented to the Regents for authorization prior to their presentation to the Building Board for approval or recommendation to the Legislature for final approval or funding. The requests to be submitted to the Regents for authorization include:

**4.5.3.1. Requests for Capital Development Projects to be Funded by the Legislature**—These projects are generally authorized in the annual capital development project cycle and are subject to the procedures and requirements of Policy R741, Capital Development Prioritization—CDP.

**4.5.3.2. Projects Funded Entirely from Non-state Appropriated Funds**—Projects in this category that require Regents' approval are described in sections 4.5.7. and 4.5.8. below.

**4.5.3.3. Projects for which Legislative Revenue Bonding Authorization is Required**—Requirements for seeking bonding authorization are included in section 4.2. of Policy R590, Issuance of Revenue Bonds for Facilities Construction, Facilities Acquisition, or Equipment.

**4.5.3.4. Requests to use Donated or Institutional Funds for Planning and Design**—Requests to the Building Board for approval to use donated or

institutional funds for planning and design of proposed capital development projects require prior Regents' authorization.

#### 4.5.4. Acquisition and Disposal of Real Property

**4.5.4.1 Property Acquisitions Requiring Approval**—Except as provided by 4.5.4.2 below, The Regents shall review and consider for approval all institutional requests for real property acquisition that commit institutional funds in excess of \$100,000 or where consideration paid for options to acquire property commits institutional funds in excess of \$25,000. The following provisions and guidelines will be utilized by the Regents in authorizing the acquisition of real properties:

**4.5.4.1.1. Required Appraisal**—For acquisitions of property by purchase or exchange a fair market value of property shall be established that is based on an appraisal completed by a State of Utah licensed MAI appraiser with the purchase price not to exceed the appraised value unless otherwise justified.

**4.5.4.1.2. Guidelines**—The following guidelines will be utilized to the extent reasonably practicable for review and approval of real properties to be acquired by purchase, exchange or to be accepted as gifts designated for ongoing institutional use, regardless of the location of the property. The Board of Regents recognizes that, based on the diverse circumstances of specific properties, application of all these guidelines in every case may not be achievable or required.

**4.5.4.1.2.1. Proof of Clear Title**—Established by a title report or an owner's policy of title insurance if such title is deemed to be necessary.

**4.5.4.1.2.2. Phase I Environmental Assessment or Greater**—A Phase I or greater Environmental Assessment may be required by the Regents prior to purchase, exchange, or acceptance of a gifted property when there are questions about the possibility of environmental issues that would materially affect the use of the property.

**4.5.4.1.2.3. Code and Requirements Review**—Utilized to determine the suitability of a property under all applicable codes and requirements, including any applicable provisions of State law.

**4.5.4.1.2.4. Engineering Assessment**—For all improved real property valued at \$250,000 or above the institution should obtain an engineering assessment of mechanical systems and structural integrity of improvements located on the property. This need may be waived if an engineering assessment has been performed within the past 12 months or if the land is unimproved. The institution may perform an engineering assessment for real property valued at less than \$250,000.

**4.5.4.1.2.5. Past Maintenance and Operational Expenses**—Where possible, past maintenance and operational expense histories should be obtained.

~~4.5.4.1.2.6. **Situs, Zoning, and Planning Information**—This information should be obtained where applicable or when it is determined to be needed.~~

~~4.5.4.1.2.7. **Land Survey**—An Alta/ACSM Land Title Survey should be obtained unless such a survey has been performed in the prior 12 months.~~

~~4.5.4.2. **Property Acquisitions Adjacent to Campuses**—The State Board of Regents delegates the authority to the institutional Boards of Trustees to engage in property purchase transactions if a property purchase meets the above conditions with the following limitations:~~

~~4.5.4.2.1.—Property needs to be identified on the approved campus master plan and must be contiguous to the current campus boundary.~~

~~4.5.4.2.2.—Property purchased cannot exceed \$500,000 for properties purchased by the UU, WSU, SLCC, UVU, USU and DSU, \$400,000 for SUU and \$250,000 for Snow and USU—Eastern.~~

~~4.5.4.2.3.—All purchases must have a supporting appraisal; made by a licensed appraiser, where the purchase price cannot exceed the MAI appraised value~~

~~4.5.4.2.4.—Property purchased with endowment funds or independent foundations does not need approval from the Board of Regents, regardless of cost.~~

~~4.5.4.2.5.—This delegation of purchasing authority is only available in instances where no O & M funds will be requested. If there is a need for operations and maintenance funds, the purchase needs to be approved through the normal Regent process.~~

~~4.5.4.2.6. **Reporting of Property Acquisitions**—Institutions engaging in a purchase of property utilizing the above authority are required to report the purchase at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.4.3. **Real Property Donated to Institutions Related to Development and Fund Raising Initiatives**—Acceptance of gifts of real property expected to be sold by the institution with proceeds to be assigned to designated purposes, or to be used for institutional needs not specified by the donor is delegated to the institutional presidents within institutional gift acceptance standards and procedures approved by the Boards of Trustees.~~

~~4.5.4.4. **Disposal of Property**—Except as provided by 4.5.4.4 below, all disposal of real property by USHE institutions is subject to approval by the Regents.~~

~~4.5.4.4.1. **Determination of Surplus Property**—If the real property is determined to not serve the institution's mission and is, therefore, surplus real property it is eligible for sale or exchange on the open market.~~

~~4.5.4.4.2. Fair Market Value—Unless otherwise justified, surplus real property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser.~~

~~4.5.4.5. Disposition of Donated or Gifted Property that is not Contiguous to Campuses—The State Board of Regents delegates to the institutional Boards of Trustees the authority to dispose of donated or gifted real property that is not contiguous to campus boundaries subject to the following conditions:~~

~~4.5.4.5.1. The disposal price cannot exceed \$500,000 for properties disposed of by the UU, USU, WSU, SLCC, UVU and DSU, \$400,000 for SUU; and \$250,000 for Snow and USU-Eastern.~~

~~4.5.4.5.2. The property shall be sold at or above fair market value as determined by an appraisal completed by a State of Utah licensed MAI appraiser unless:~~

- ~~a) the value of the property does not warrant the cost of the appraisal (e.g., low valued recreational property or seriously deteriorated properties, where sale proceeds would be seriously reduced or eliminated due to the cost of obtaining an appraisal);~~
- ~~b) the gifted property has preexisting conditions that affect the future sales price (e.g., an undivided property interest with the sale controlled by the majority holders, or the property comes from a donor with a sale or price already negotiated or in process with a buyer)~~

~~4.5.4.5.3. Reporting of Property Disposals—Institutions engaging in disposal of property utilizing the above authority are required to report the disposal at the next regularly scheduled State Board of Regents' meeting.~~

~~4.5.6. Approval of Projects that are inconsistent with Approved Institutional Roles, Goals and Objectives—The Regents will review and approve, as they deem appropriate, all other institutional requests for planning and construction of facilities, or major remodeling of existing facilities, regardless of the source of funds to be used for such activity, where the proposed construction or remodeling is inconsistent with the role assignment of the institution involved, is not in accord with institutional goals and objectives previously approved by the State Board of Regents, which will require a substantial change in the approved programmatic planning or facilities master plan, or where the construction or remodeling is subject to legislative project approval. Further, all requests for operations and maintenance (O & M) funding require approval by the State Board of Regents. Delegation can occur in the following circumstances:~~

~~4.5.7. Projects Funded from Non-State Appropriated Funds—Review and approve institutional project requests for planning and construction of facilities, or remodeling of existing facilities, for which no appropriation of state funds or authority to incur bonded indebtedness is requested, as follows:~~

~~4.5.7.1. Funded from Student Fees, Contractual Debt, or Disposal or Exchange of Capital Assets: Proposals for projects funded in whole or in part from an adjustment in~~

student fees, incurring of contractual debt, or the disposal or exchange of land or other capital assets shall be approved by the institutional Board of Trustees prior to submission to the Board of Regents.

**4.5.7.2.—Funded from Private Sources:** Major construction or remodeling projects (defined as projects costing more than \$1,000,000) funded through private sources or a combination of private sources and other non-state funds shall be approved by the institutional Board of Trustees. Upon trustee approval, the institutional President shall submit the project to the Commissioner for inclusion as an action item on an upcoming Board of Regents agenda.

**4.5.8.—Operating and Maintenance (O & M) Costs on Non-State Funded Projects:** (a) An acquisition, construction or remodeling project funded from private sources, or from a combination of private sources and other non-state appropriated funds will be eligible for state appropriated O & M when the use of the building is primarily for approved academic and training purposes and associated support and is consistent with the programmatic planning and facilities master plan requirements of the institutions. Examples of such space include classrooms, class/labs, faculty and education and general administrative offices and related space, library and study space, open labs, education and general conference rooms, physical education space, and academic and approved training support space, i.e., admissions, records, counseling, student aid administration, campus security, computer center and telecommunication space, etc.. If an academic facility, funded in whole or in part by non-state funds, is built to a scale larger than Board approved programmatic or facilities planning requirements, the excess space may not qualify for state appropriated O & M funding. The Board will consider the eligibility of the institution to receive state O & M funding for such excess space on a case-by-case basis.

(b) In most cases, if the acquisition, construction or remodeling project is not primarily for approved academic and training purposes or associated support, it will not be eligible for state appropriated O & M funding. Examples of such space might include research space not generating student credits or the equivalent thereto, football stadia, softball, baseball, soccer fields, basketball arenas, self-support auxiliary space, i.e., college bookstores, food service, student housing, recreational services, student organizations, private vendors and student health services spaces, etc.

(c) The Board, on a case-by-case basis, may determine that an acquisition, construction or remodeling project to be used primarily for purposes other than approved academic and training purposes and associated support should be eligible for state appropriated O & M funds in whole or in part. Each request for such Board consideration must be accompanied by a detailed statement showing how space types included in the facility will relate to important institutional activities such as instruction, research generating student credits, and service within the institution's role statement. Examples of such space might include museums, theaters, community outreach and research spaces administered by academic units that generate academic student credits or the equivalent thereto, etc.

**4.5.8.1.—O & M Funding Sources for Projects Not Eligible for State Appropriated O & M:** In those cases where property acquisitions, construction, or remodeling projects are not eligible for state appropriated O & M funding, the institutional proposal must include arrangements as to how O & M as defined by the State Building Board will be covered. Institutions are to pursue O & M funding in the following sequence for such ineligible non-state funded facilities: first, separate non-state funding assured through private contracts or an O & M endowment established by a private donor; and second, an institutional O &

~~M funding plan with additional revenue to support the new space to be credited to its O & M accounts.~~

~~4.5.8.2.— Board Approval of O & M Funding Plan: The institutional O & M funding plan must be consistent with the provisions of 4.5.6 and 4.5.6.1 to receive Regents' acquisition, construction or remodeling project approval. Increased consideration for state appropriated O & M will be given to projects previously listed in the Utah State Building Board Five Year Building Program. Board approval of the acquisition of the facility shall include approval of a plan to fund the O & M costs, including the source of the funds and the projected amount needed. Further approval of such proposals, when legally required by the State Building Board and the Legislature, will follow their respective established procedures.~~

~~4.5.9.— Leased Space: The Board of Regents shall review significant lease terms and approve institutional requests for plans to renew or enter into new leases of capital facilities space ~~with state appropriated funds~~ for programs of instruction, research, or service when contracts for leasing such facilities:~~

~~3.1 (1) exceed \$250,000 per year regardless of funding source for the state research institutions (the University of Utah and Utah State University) or exceed \$100,000 per year regardless of the funding source for all other USHE institutions;~~

~~3.2 (2) commit the institution to space rentals for more than 10-years duration ~~or beyond~~;~~

~~3.3 or (3) lead to the establishment of regular state-supported daytime programs of instruction in leased space; or~~

~~3.4. will include instructional space located outside of the service area designated by Regent Policy R315, *Service Area Designations and Coordination of Off-Campus Courses and Programs*.~~

~~An annual report of all space leased by the institutions, including space leased for off campus continuing education programs and space leased in research parks, shall be compiled by the Commissioner's Office for review by the Board of Regents and forwarded to the State Building Board for possible inclusion its comprehensive 5-year building plan.~~

~~4.6.— The Commissioner Is Authorized to:~~

~~4.6.1.— Recommendations: Propose annual recommendations for capital facilities development and improvement projects based on approved capital facilities qualification and prioritization procedures for consideration by the Board in the preparation of its recommendations to the State Building Board, Governor and Legislature.~~

~~4.7.— Institutional Boards of Trustees Are Authorized to:~~

~~4.7.1.— Facilities Master Plans: Review and approve institutional campus facilities master plans before they are forwarded to the State Board of Regents.~~

~~4.7.2.— Requests for Appropriated Funds: Review and approve for submission to the State Board of Regents all institutional requests for funds for capital developments and capital improvements to be appropriated by the State Legislature through the State Building Board.~~

~~4.7.3.— **Inconsistent Projects:** Review and approve all other institutional proposals relating to planning or construction of capital facilities, or major remodeling of existing capital facilities that require State Building Board approval and/or legislative project approval, regardless of the source of funds to be used for such activity, except to the extent that responsibility has been delegated to the institutional President as specified below in section 4.8. These actions will be reported to the State Board of Regents monthly as a part of the institutional Board of Trustees minutes, and will include planning and budget reports in the form prescribed by the Commissioner or other appropriate description and justification.~~

~~Proposals for inconsistent projects must be forwarded to the State Board of Regents by the institutional President, together with the institutional Board of Trustees' recommendations, for review and action by the Regents if:~~

- ~~• construction or remodeling is contrary to or will require substantial change in the approved programmatic planning or facility master plans;~~
- ~~• is inconsistent with the role assignment of the institution involved; or,~~
- ~~• is not in accord with previously approved institutional goals or objectives.~~

~~4.7.4.— **Public Hearings:** Conduct all required public hearings on any project, provided that adequate notice be given the State Board of Regents of any such required public hearings.~~

~~4.8.— **Institutional Presidents Are Authorized to:**~~

~~4.8.1.— **Other Necessary Actions:** Take all necessary actions relating to construction and remodeling activities that do not require State Building Board approval.~~

~~4.8.2.— **Routine Repair and Maintenance:** Assume the responsibility for routine repair and maintenance of existing structures or facilities (i.e., painting, roof repair, plumbing and electrical repairs, etc.). Institutions must adhere to the State Building Board facility maintenance standards.~~

~~4.8.3.— **Change Orders:** Assume the responsibility to approve and recommend to the DFCM any change orders on projects under construction, as long as funds are available and the change order is within the approved purpose of the project.~~

~~4.8.4.— **Accept Completed Facilities:** Accept completed capital facilities from the DFCM.~~

R705-4. Leasing State-Owned Property to Outside Entities: The Board of Regents shall review and approve institutional requests to lease state-owned institutional property to non-institutional entities if the lease will exceed \$250,000 or extend for more than 10 years for a state research institution (the University of Utah and Utah State University) or exceed \$100,000 per year or extend for more than 10 years for all other non-research USHE institutions.

4.1. Approval of nontraditional arrangements for the use of institutional-owned facilities is subject to the provisions of Regent Policy R712, *Nontraditional Arrangements for Development of Facilities on Campuses*.

R705-5. Delegation of Authority to Boards of Trustees: The Board of Regents delegates authority to the institutional Board of Trustees to approve:

5.1 leases under \$250,000 of state-appropriated funds and less than 10-years in duration for a state research institution (the University of Utah and Utah State University);

5.2 leases under \$100,000 of state-appropriated funds and less than 10-years in duration for all other non-research USHE institutions.

**R705-6. Delegation of Authority to the University of Utah Board of Trustees for University Health Care System Leases:** In accordance with Regents Policy R220, *Delegation of Responsibilities to the President and Board of Trustees*, the University of Utah Board of Trustees may review and approve all property leases for the University of Utah Health Care System.

**R705-7. Annual Report to the Board of Regents:** The Commissioner shall report annually to the Board of Regents all space leased by the institutions in the System of Higher Education, including space leased for off-campus continuing education programs and space leased in research parks.

**6.1. Institution Lease Information:** In accordance with procedures and forms developed by the Commissioner's Office, institutions shall annually submit information for all space leased by the institution.

**6.2. Submission to the State Building Board:** After review by the Board of Regents, the Commissioner shall forward the report to the State Building Board for possible inclusion its comprehensive 5-year building plan.



**R706-1. Purpose:** To provide for comprehensive capital facilities master planning based on approved programmatic planning at the institutions.

**R706-2. References**

**2.1.** Utah Code §53B-6-101 (Master Planning - Board Establishes Criteria to Meet Capital Budgetary Needs)

**2.2.** Utah Code §53B-20-101 (Property of Institutions to Vest in State Board)

**2.3.** Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)

**2.4.** Policy and Procedures R74001, Capital Facilities

**R706-3. Master Planning:** Institutions shall complete and keep current a comprehensive capital facilities master plan based on programmatic planning for new and existing facilities. Master plans should be realistic, achievable, and flexible.

**3.1.** Master plans shall emphasize renovation, replacement, and improvements to existing capital facilities before additions for new space unless otherwise justified.

**3.2.** Institutions shall be thorough and innovative in their allocation and reallocation of space within their existing physical assets, rather than relying on the addition of new space.

**R706-4. Periodic Updates:** The master planning process is continuous and the higher education environment is dynamic; therefore, master plans must be constantly reviewed and updated periodically to reflect demonstrable changes in strategic direction, planning, and environment.

**R706-4. Master Plan Approval:** At least biennially institutions shall submit capital facilities master plans to the Board of Regents for approval.

**4.1.** Prior to submission for Board approval, Institutional Boards of Trustees shall review and approval institutional campus facilities master plans.

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<sup>1</sup> Approved September 16, 1975, amended July 19, 2013



# R706, Capital Facilities Master Planning<sup>1</sup>

**R720706-1. Purpose:** To provide for comprehensive capital facilities master planning based on approved programmatic planning at the institutions.

## **R720706-2. References**

**2.1.** Utah Code §53B-6-101 (Master Planning - Board Establishes Criteria to Meet Capital Budgetary Needs)

**2.2.** Utah Code §53B-20-101 (Property of Institutions to Vest in State Board)

**2.3.** Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)

**2.4.** Policy and Procedures R74001, Capital Facilities

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<sup>1</sup> Approved September 16, 1975, amended July 19, 2013